

PART 1 of 4

Justice Daniel Billings 0:01

We're on the record here in, Cumberland County Superior Court. Is June 11, 2024 we are here for trial in the matter of CV-21 138, Drew Pierce et al versus Anthony Rinaldi et al. We have folks identify themselves. So the record, starting with Attorney for the plaintiff.

Attorney Monteleone 0:26

Good morning your honor. James Monteleone for the Plaintiffs Thank you.

Defendant Rinaldi 0:30

Good morning your honor. Anthony Rinaldi, pro se,

Justice Daniel Billings 0:32

thank you. We are here for trial today, **pending before the court is the plaintiff's motion for a spickler order, that order is denied**. The relief sought in the order is an extreme relief, and the court believes that the circumstances in this case fall short of the circumstances that would justify such relief. The and the court has doubts whether it would be in the Court's authority as the trial court to enter a spickler order, which would deny the defendant's right to file with the law court. From the court's research when that has been done, that has been done by the law court. So the request for a spickler order is denied. Also **pending before the court is the defendant's motion for me to recuse** court will note that it was filed yesterday afternoon at 3:55pm on the eve of trial, court has reviewed it. The I have not compared it to a transcript. **The quotes, I believe are accurate. They certainly sound like things that I remember saying, and if the law court ultimately it will first if there is a judgment against the defendant, and the law court believes I crossed any lines, they'll tell me so on appeal, so that motion is denied as well.** So we are here for trial today, and plaintiffs Council can begin with opening arguments opening statement.

Attorney Monteleone 2:30

Please the court This case is about a Residential Purchase and Sale Agreement between a buyer and a first time SPEC builder. It's happening in the fall of 2020, through the spring of

2021, a point in time when the real estate markets were spiking dramatically amid the covid pandemic. Now defendant Rinaldi was the seller and the builder in that contract. **Mr. Rinaldi had no prior experience as a general contractor**, as a SPEC builder. **This was his first house of this nature. He had no experience budgeting expenses for a full size project. He had no experience working with construction lenders. He had no experience managing time on a full scale project, and he had no particular appreciation for the commitments that he made.** No the parties were under contract for house that Mr. Rinaldi was actively building. **Rinaldi had redesigned the build that he had had previously had under contract to have some additional, some different features.** He outlined those features in a summary, provided those features to the buyer, Drew Pierce and then had a conversation, confirming that those features are what he was actively building. The framing of what he was building is, was there, there to be seen, in turn, seeing that Mr. Pierce was, was pleased. Put in a he put in an offer for the amount that Rinaldi's, agent Expressed he was asking for \$385,000 now he did so with the understanding that that reflected what he saw in papers, what Mr. Rinaldi told him he was building his agent put together an offer using a scope of work from from the original listing, because that was the only one that was available, recognizing, understanding that that would be the new bill would be updated. In fact, it was a month later, Mr. Rinaldi provided a corrected version of the spec sheet that showed what he was actually building, and it was immediately signed by the buyers. I. Now this project was promised to be completed in November of 2020 come November 2020, it was nowhere near completion. Mr. Pierce was actually quite patient. Worked with him, gave him time and allowed for extensions. Ultimately, it extended out through no through the following March. When March came, there had been, it was on track. There had been no, no issues with what Mr. Was, what Mr Rinaldi, what Mr. Rinaldi was building, what Mr. Pierce was buying. Ultimately, they go through the process that's common in closings, if of getting a final appraisal, in which they identify issues that are incomplete, and the bank said these items are the contract they're incomplete, we need to hold escrow for them. Those provided Mr Rinaldi, no objection. The objection happens the first time the day before closing. On that day, Mr Rinaldi, for the first time, receives the HUD one office statement summarizing how proceeds will be dispersed to the seller, and he sees for the first time that he will ultimately receive less than \$3,000 in proceeds on the sale that he'd been working for have built on the construction he'd been working for months. No doubt, **Mr. Rinaldi was inaccurately was unable to track what he had spent on the project, what contractors what subcontractors were paid, how the lender went about paying for those contractors. Didn't discover that until he sees the bottom line what he's going to receive. Only then he says, I'm not doing this. He's aware that at that point in time, the real estate market had gone up. Supply with there was no supply.**

Demand was high. He was he was well aware of that, and he made that clear as he was telling the buyer, I don't have to do this. Concessions were made to try and induce Mr. Rinaldi to follow through on his on his obligations. Specifically, he was objecting to paving whether or not he had to, had to pay, whether the term that's referenced in the contract as blacktop was meant by providing gravel. Mr. Rinaldi contended that Gravel was that top and so he didn't have to pay that escrow, and contended that the plaintiff, the buyer, was in breach. Ultimately, Mr. Rinaldi refused to attend a closing, leaving Mr. Pierce and his agent sitting at the closing table on the last day of the contract, a last, last effort to try and induce Mr. Rinaldi to come with additional concessions. And commissions were were written off. Additional payments were offered Rinaldi refused. Said, I don't have to well A week later, Mr Rinaldi received a letter from council saying your in breach of contract. In response, he was invited to mediate. Let's try and resolve this problem. We can. We can bridge this gap. Mr Rinaldi refused. Instead, he relisted the property with a different broker, and within days of relisting it, put it under contract for \$102,000 more than the contract that Mr. Pierce had now, three years later, the plaintiff is here asking the court for the benefit of his bargain that Mr. Rinaldi failed to appreciate. It's required three years of litigation because Mr. Rinaldi refused to mediate from the get go. And with that tdrew is Drew Pierce has been, has been left to fend for himself. He's been unable to find another house. He was unable, he was unable to find another house in Maine, and ultimately abandoned his search because of because prices had gone up, and we're here three years later, trying to recover. What it take, what it took to close that gap in 2021

Justice Daniel Billings 9:46

Thank you. Thank you. Mr. Rinaldi, I'll hear from you.

Defendant Rinaldi 9:55

So what the court's going to hear is actual evidence. That is supported by facts, not allegations, not just I mean, James is a good talker. He's very good talker. He's very impressive. I have no issues, actually, with Drew. My issues are with the realtors. I believe Drew is a victim to some extent, but we both are. But that's not on me, that's on the realtors. So nonetheless, pretty much everything he just presented is false. I do have prior experience building. I've built multiple homes. I'm a good builder. I've been building for a long time. When you build a house, the materials are pretty much fixed. No matter how if you got no experience or you got a ton of experience, your materials are going

to be fixed. The labor is the one that's hard to manage. Now, yes, this was my first house on my own. It's the first house where I got the loan they don't tell you, you know, if something goes wrong. You have to pay for the labor, install the materials, and then the draw comes later. And so I was forced to build it on my own. So I'm sleeping in my van, working around the clock, building a house and not cutting any corners, not skipping any steps, doing it the right way. Now, I was contracted to build a three bedroom, two and a half bath, 1900 square foot home immediately after they had the option of the bigger home or the smaller home. Yes, I had made some changes, but that does not change the square footage the bonus room of the garage was never to be finished. That was asked later on. Now, yes, I did sell \$102,000 more, but there are \$100,000 in upgrades that were requested that weren't paid for. So it seems kind of foolish to ask them for 100,000 upgrades and not pay for them, and then say, I want to sue you for those upgrades. So it's just, it's just, it's foolish. You know, the realtors, there was money, money embezzled, and came to my attention. I was pretty upset about it. And prior to he says on the fourth was the first time I said anything. That's just not true. Although way back to you until February 23 Matt, one of the realtors, was, we're going to get you more money. We're going to get you more money. That was before the painting and paving. So they're trying to provide me more money. What for? Clearly, because of the upgrades in the text, every bit of evidence, everything I present to the court is going to be supported by evidence that it's not just going to be allegations. It's not going to just be good talk. Going to just be good talk, it's going to be supported by actual evidence. Both Realtors were involved with the case. When the case was filed, it wasn't about the paving. They filed the case saying that I sent a text message saying that I will close someone else more money. That text does not exist. I never said that. I was very, very clear why I wasn't closing. And it wasn't on the fifth that the breach that the deal fell through. It was on March 4. On March 4, they were trying to give me more money for the money that was missing and the unpaid upgrades. They came up a little, not nearly enough. And then I noticed, I'm upset, because I just, I'm sleeping in my van building this house. I should get compensated for it. I didn't do anything wrong. The labor was extremely low because I did it myself. The materials are fixed price, so per square foot, I built that house cheaper than anybody around, and yet I'm not going to make any money when people build it for a much higher square footage and make money just not logical. I mean, why would any builder do that? So nonetheless, on the fourth is what I did realize about the painting and painting, the painting I knew about, if you go back to February or something, Matt said, work over the weekend, you can make back the escrows. He was referring to the painting. I finished the painting. It was a long weekend, so I wanted that money removed as I should, and they had already come up for the money that was stolen and the upgrades and whatnot, not enough, but came

up, and I'm like, Well, I want this too. I mean, I just built the house. I should get compensated accordingly. I shouldn't be walking away with peanuts after I just, you know, nine months, you know. And then they mentioned that delays. This was during the height of covid. We had material shortages. There was a industry wide, shortage of materials and labor prior to covid. Covid happens, and now you can't get PVC. I couldn't get two by six windows. I had to get two by four windows and build extension jams. I mean, it was, it was a difficult it caused delays, nothing, because delays was meeting with his realtor all the time and having all these questions in them. And then the contractor came in for landing that messed stuff up, and I had to fix it. So yes, there were delays, but a lot of it wasn't on me. I mean, when I dealt with what I pulled off to build a house, almost single handedly, not just any house. This house is gorgeous. It's a beautiful custom, custom home. I built that thing in nine months, almost single handedly. That's That's remarkable. Most builders couldn't do that. I care. Like, I'm a good contractor. Drew I actually, like, I think he's a good guy. He was misled. I mean, I had his deposition right here. He wasn't even told why the closing fell through He didn't, he wasn't even aware, you know. So the realtors are taking money, doing this and that, and playing both of us. So unfortunately, you know, again, I my, my heart breaks for him, because he, I believe he did get the raw end of the stick, but I did too. So his gripe should be with the realtors, not with me. I did nothing wrong. I built a house. Im a man of my word. I did everything right, and everything he's presented to you just not, not accurate. So when we filed the first extension, they got me to sign this rate lock. If you look at the evidence and they say, sign the extension, and you pull these things out, you just hit click, and. Enter it and you can't see the document, and then the document right there. It says, rate lock. So I sign that and not have no clue of the rate lock till the end. And then in January, they tried to get me to sign another extension with \$500 a day. I would have paid 30 grand at closing to them for what I did, nothing wrong, like I literally built this house in record time. So it's just, it's crazy. These Realtors did not, you know, did not behave themselves, both of them for landing real estate. There's a third realtor that checks were issued to. The plaintiffs, his realtor had my bank issuing checks to any other landing agent. That's just insane. I mean, that really, like that happened. And it just so happens I had like, \$100,000 or \$90,000 left in equity. Just so happens. Just so happens it came. They really, they're bill came to exactly what I have left in equity. They saw what I had in equity. They just took it, and then I was just like, You kidding me? I really have to pay you the \$100 at closing. That's what the number was. And which, obviously I'd be upset. I mean, I'm sleeping in my van. I'm building this house. I'm not skipping any steps. I'm very thorough. I'm good contractor. I've never had any issues. I've built many houses I know what I'm doing, and it's, you know, it's insane to say otherwise. So again, even if I have no experience,

the issue when you're building a house, where it goes wrong is labor, not materials. Materials are going to cost XYZ in my house, they're all the same materials. So yes, they go up and down, but I already purchased materials pre covid. So if anything during that time, builders were getting out of contracts because of covid. They were saying, hey, materials have gone up. I know we have a contract, but because of covid, I want to renegotiate. And they were negotiating up, not down. So for me to have to pay \$30,000 at closing when they can't even point to a text or something where I did something wrong. I did everything right. I mean, I was literally working around the clock. I'm very close to my son. My son's a 16 year old. He is probably one of the top two or three baseball players in the state. He's a freshman. He could throw almost 90 miles per hour. I'm very proud of him. He's my life. My life Revolves around him, and I didn't see him for nine months, and that's a big deal for me, because he lives with me I have 100% of the time. And, yeah, just get emotional talking about because he's just, you know, so, yeah, I mean, I'm sacrificing my mom had cancer, looking after my son, like to, you know, get stolen from and taken advantage of, and then they look like I'm the bad guy when I did nothing wrong. I mean, there's a lot of bad contractors that do. I'm not one of them, so it's just an insult to even be in this courtroom right now and have to wait three years, spend 3000 hours of my time to learn the law, to fight the law, and to, you know, and I have no issues with you. I've looked at your record. You were probably one of the best judges in the state. I have no issue with you. I really don't. I was really excited when you took the case. I really was, you know, Justice O'Neill, unfortunately, just,

Justice Daniel Billings 17:43

it's not about the judge. You don't need to appoligize

Defendant Rinaldi 17:47

I just

Justice Daniel Billings 17:47

move on.

Defendant Rinaldi 17:48

You know, I do feel bad about filing that I just

Justice Daniel Billings 17:50

don't, don't worry, yeah, nonetheless, I don't take any of this.

Defendant Rinaldi 17:58

I appreciate that. I do so but nonetheless, everything I'm going to present to the court is going to present to the court is going to be supported by evidence. None of it's going to be allegations, and it's going to show that when they filed a lawsuit, nothing was truthful, you know. And again, my issue isn't with Drew, you know, my issues with the realtors and my issues is with, you know, Mr. Monteleone because I don't believe he treated me fair and acted in good faith. So, but I look forward to presenting this evidence. I look forward to testifying. I look forward to, you know, getting the truth out there. So I appreciate it. Thank you.

Justice Daniel Billings 18:28

Council, the plaintiff may call first witness

Attorney Monteleone 18:32

Plaintiffs calls Andrew, Lord,l

Justice Daniel Billings 18:34

So Mr. Lord, try to keep that microphone generally in front of you. The most important thing is that you keep your voice up when you're testifying that way, both the microphone picks it up and everybody here in the courtroom can hear you can use maybe you already did, but case you didn't, can you state your first and last name for the record and then spell your first and last name?

Realtor Andy Lord 18:34

Andrew Lord A N D R E W L O R D

Justice Daniel Billings 19:23

thank you . Council

Attorney Monteleone 19:33

morning, Mr Lord

Realtor Andy Lord 19:37

Good morning?

Attorney Monteleone 19:42

No. What do you do for a living?

Realtor Andy Lord 19:45

I'm a real estate broker.

Attorney Monteleone 19:47

And are you licensed?

Realtor Andy Lord 19:51

Yes.

Attorney Monteleone 19:55

Who hired you? What were you hired in association with a. Um, with 451 Cape Rd Property

Realtor Andy Lord 20:04

Yes, I was

Attorney Monteleone 20:04

And by who

Realtor Andy Lord 20:05

Drew Pierce and, Janice Larivere

Attorney Monteleone 20:09

when were you hired by Drew and Janice,

Realtor Andy Lord 20:11

I have to look at the buyer's agreement around early August

Attorney Monteleone 20:17

of when

Realtor Andy Lord 20:18

2020,

Attorney Monteleone 20:21

and at the time, How long had you worked as a broker?

Realtor Andy Lord 20:26

Three and a half years

Attorney Monteleone 20:29

now, what was it that that drew was looking to accomplish with your services?

Realtor Andy Lord 20:38

He was looking to buy a home in maine

Attorney Monteleone 20:41

and what role did Janice play in that

Realtor Andy Lord 20:50

She was co signing the loan for him

Attorney Monteleone 20:50

And to clarify, who's who's Janice

Realtor Andy Lord 20:52

Drew's mother.

Attorney Monteleone 20:55

So looking back to the fall of 2020 Summer and Fall of 2020, what was happening with the house that with the real estate market at that time,

Realtor Andy Lord 21:07

it was going up rapidly. There were multiple offers where the norm on most houses, most properties, were going pretty quickly.

Attorney Monteleone 21:17

And overall, how was, how was the supply of available houses?

Realtor Andy Lord 21:20

It was very low.

Attorney Monteleone 21:21

And how would you characterize the demand,

Realtor Andy Lord 21:23

very high.

Attorney Monteleone 21:24

Now, I'd like to turn and discuss the process of identifying that the 451 Cape property. So when did when did you learn that the 451 Cape Rd property was was being kind of redesigned and offered for sale

Realtor Andy Lord 21:50

early August 2020,

Attorney Monteleone 21:54

and what role did Mr. Rinaldi play in that

Realtor Andy Lord 21:58

he was the builder and the property owner,

Attorney Monteleone 22:03

who was Mr. Rinaldi's agent,

Realtor Andy Lord 22:06

Matt Dibiase,

Attorney Monteleone 22:07

who is Matt Dibiase ,

Realtor Andy Lord 22:08

he's the owner of landing real estate.

Attorney Monteleone 22:12

And is, is landing off? Is landing real estate? More clearly, did you work for landing real estate as well?

Realtor Andy Lord 22:22

Yes.

Attorney Monteleone 22:23

How does that work in a case where you've got two different parties with two different agents within the same real estate office?

Realtor Andy Lord 22:33

Well, each each party would have their own realtor representing them, so it's not a whole lot different than if it was two different real estate agencies one side had the listing one side had the buyer

Attorney Monteleone 22:48

Now, did you receive some kind something from Rinaldi's agent that provided you an overview of what the project entailed?

Realtor Andy Lord 23:00

Yes,

Attorney Monteleone 23:01

if I can refer you to exhibit one in front of you.

Justice Daniel Billings 23:12

Okay, did you provide these to Mr Rinaldi

Realtor Andy Lord 23:17

I did. Yes.

Attorney Monteleone 23:25

What is, what is exhibit one?

Realtor Andy Lord 23:27

It's an email that Matt Dibiase forwarded to me.

Defendant Rinaldi 23:31

Can I object your honor, It's highly prejudicial. This email has nothing to do with with them. I sent it to my realtor a month prior to them. Being involved has absolutely nothing to do with them. Isn't directed to them. I didn't meet them. They weren't even

in the picture. I mean, it's highly prejudicial. Has nothing to do with them or this contract.

Justice Daniel Billings 23:51

What's the relevance Council?

Attorney Monteleone 23:53

This is Mr. Rinaldi's agent, providing the buyer's agent with a summary of what is being offered for sale, followed by conversation about the sale price at which it's being offered for sale, including attachments that provided specific information that was relied upon by the parties.

Defendant Rinaldi 24:12

It was directed towards my realtor as a potential that we could build it as to get more money. They were presented with that option, but they chose to go with the lower option. So, I mean, it's kind of fair to say, you know, in our email that wasn't directed, I didn't tell him, Matt, to send it to anybody.

Justice Daniel Billings 24:37

I'm going to overrule the objection at this point. As far as admissibility, I think the argument goes more to weight than a disability credibility. The definition of relevancy is pretty broad. I understand the point that's being made just through all that.

Defendant Rinaldi 24:50

Okay. Thank you, Your Honor.

Justice Daniel Billings 24:54

So you can proceed council

Attorney Monteleone 24:58

Mr lord What's, what's the communication that's happening in the email. In exhibit one

Realtor Andy Lord 25:06

communication is the summary of what the house is going to look like when it's done, from Mr. Rinaldi to Matt Dibiase, to which he forwarded to me

Attorney Monteleone 25:16

and and tell me what, what is, what is the email address for Mr. Rinaldi's agent?

Realtor Andy Lord 25:26

First his agent It's Matt@landinghomesmaine.com

Attorney Monteleone 25:38

now are you able? Are you able? To to infer who drafted the attachment? I should say the source of the attachment,

Realtor Andy Lord 25:53

Mr. Rinaldi.

Attorney Monteleone 25:54

Why? Why do you come to infer that the source is Mr. Rinaldi

Realtor Andy Lord 25:58

Because it comes from his email address,

Attorney Monteleone 26:00

and what's Mr. Rinaldi email address?

Realtor Andy Lord 26:01

SouthernMaineConstruction@gmail.com

Attorney Monteleone 26:03

Do you have an independent basis to um since this email to understand if that's that's an accurate email address for Mr. Rinaldi?

Realtor Andy Lord 26:16

Say that I'm sorry.

Attorney Monteleone 26:18

Have you come to know that that email address is, in fact, Mr Rinaldi's

Realtor Andy Lord 26:21

yes, I have

Attorney Monteleone 26:24

so is it is exhibit one a true, a true copy of the email and summary that you received.

Realtor Andy Lord 26:35

Yes, it is.

Attorney Monteleone 26:35

And what was the purpose for? Why rinaldi's Agent provided it. Provided exhibit one to you

Realtor Andy Lord 26:44

because we were preparing to write an offer on this property. We wanted to know what it was going to look like and what the finishes were kind of

Attorney Monteleone 26:54

move for admission of exhibit one

Justice Daniel Billings 26:57

It will be admitted over the objection. I

Attorney Monteleone 27:09

now, are you aware whether the house of Mr. Rinaldi was building was previously listed

Realtor Andy Lord 27:17

it was

Attorney Monteleone 27:18

and how much was it previously listed for?

Realtor Andy Lord 27:22

I'd have to see the listing

Attorney Monteleone 27:24

Okay. And are you aware of whether the original listing was was different in design?

Realtor Andy Lord 27:34

Yes,

Attorney Monteleone 27:36

**Now When you received exhibit one in early August of 2020, was the earlier listing?
Had the earlier listing expired?**

Realtor Andy Lord 27:49

Yes.

Attorney Monteleone 27:53

**Now, what is it that the summary in Exhibit one showing you. What did you glean from
your review and exhibit one?**

Realtor Andy Lord 28:04

**So this, this was the house as we were making the offer. This is the depiction of how
the house was to be built.**

Attorney Monteleone 28:14

What was the status of this project when you learned about it,

Realtor Andy Lord 28:19

**it was partially framed up. The foundation was in that was it really not much else was
there.**

Attorney Monteleone 28:26

In other words, construction had already had already begun.

Realtor Andy Lord 28:29

Oh yes,

Attorney Monteleone 28:32

now, so in the build that that Mr. Rinaldi had outlined what were, what were the specifications of what was being built.

Realtor Andy Lord 28:48

It was going to be a four bedroom two and a half bath, 2269 square foot house with a farmer porch and a two car garage with a room above it.

Attorney Monteleone 29:00

No, you inquired. Did you inquire about what the asking price was based upon the changes that Mr Rinaldi was making?

Realtor Andy Lord 29:13

Yes, I did.

Attorney Monteleone 29:14

And and what did Mr. Rinaldi's agent inform you was the was the asking price?

Realtor Andy Lord 29:20

It was going to be \$385,000

Attorney Monteleone 29:26

so subsequently, did you have opportunity to visit the site and the construction underway?

Realtor Andy Lord 29:32

Yes I did.

Attorney Monteleone 29:33

When did that happen?

Realtor Andy Lord 29:34

Prior to writing our offer,

Attorney Monteleone 29:37

approximately relative to when you received exhibit one

Realtor Andy Lord 29:40

in the first week of August. Within that week,

Attorney Monteleone 29:45

when you visited the property, did you have opportunity to meet with Mr. Rinaldi at the site?

Realtor Andy Lord 29:50

Yes.

Attorney Monteleone 29:53

What did you discuss with Mr. Rinaldi while you were there,

Realtor Andy Lord 29:56

we discussed the scope of work, the finishes and then the timeline for it to be completed,

Attorney Monteleone 30:01

and what, what was that said it different was, was that scope of work that he described any different than what you you had see him summarizing in exhibit one?

Realtor Andy Lord 30:12

No, it's consistent with that

Attorney Monteleone 30:15

was, did you did what Mr Rinaldi described? Was that different than what you saw Mr. Rinaldi was was building at the time?

Realtor Andy Lord 30:23

No, it appeared to be accurate as to what he was building.

Attorney Monteleone 30:26

Okay. And were there features that allowed you to tell the difference between this, this new build that he was describing to you, and his earlier version of the build?

Realtor Andy Lord 30:36

Yes

Attorney Monteleone 30:36

. What were those features?

Realtor Andy Lord 30:38

Well, we could see that the gable end framing was on top of the garage for the room above it, and we can see that the part of the building was prepared for the farmer porch

Attorney Monteleone 30:47

So in other words, in the original build design, those features weren't, weren't part of it

Realtor Andy Lord 30:54

correct.

Attorney Monteleone 31:01

Now did in that discussion, did Mr. Rinaldi get into details about the number of bedrooms he intended build and the kind of the finishes

Realtor Andy Lord 31:12

Yes.

Attorney Monteleone 31:13

And what did that include?

Realtor Andy Lord 31:16

It was going to be four bedrooms finished. We talked about the kitchen design, the flooring choices, pretty much everything we were looking at a shell of a building at that point. So to understand what it was going to look like, we did have a very in depth conversation about it,

Attorney Monteleone 31:33

all right? And how did he, how did he describe that, that room above the garage

Realtor Andy Lord 31:44

that was going to be the fourth bedroom.

Attorney Monteleone 31:46

But was there kind of a particular phrasing that he used to describe that space?

Realtor Andy Lord 31:52

I think we talked about we used the phrase bonus room.

Attorney Monteleone 31:55

Did, did Mr Rinaldi discuss his intentions about as to some of the other amenity features that were identified as being being provided with his anticipated build,

Realtor Andy Lord 32:16

as far as the levels of fishes and tile shower

Attorney Monteleone 32:20

correct in terms of those, the amenities that were outlined in Exhibit one,

Realtor Andy Lord 32:23

The specifications for this was very high end

Attorney Monteleone 32:28

and and did you discuss that with him at the point in time that you were meeting there at the site?

Realtor Andy Lord 32:33

Yes,

Attorney Monteleone 32:34

now at any point in time, did, did Mr Rinaldi present this as being a choice between build one or build two?

Realtor Andy Lord 32:53

No,

Attorney Monteleone 32:56

what was it? What was it presented as

Realtor Andy Lord 32:58

it was presented as consistent with exhibit one. It was going to be a fully complete house with the specifications that he had put together in this email, and it was to look like that.

Attorney Monteleone 33:10

And was that consistent with the observations that you, that you had at the site when you were there seeing it?

Realtor Andy Lord 33:16

Yes.

Attorney Monteleone 33:20

So I'd like to turn and discuss the process of actually going under contract.

Realtor Andy Lord 33:25

Okay.

Attorney Monteleone 33:26

Now, did you who prepared the contract offer

Realtor Andy Lord 33:29

I did, and

Attorney Monteleone 33:35

what was the offer for,

Realtor Andy Lord 33:37

for the purchase of the completed house,

Attorney Monteleone 33:39

and what was your understanding about what completed house Mr. Pierce was buying

Realtor Andy Lord 33:47

my understanding, it was going to look just like exhibit one.

Attorney Monteleone 33:51

**Didn't Mr. Pierce ever express to you that he wanted something different than what
what was shown in the in the specs in Exhibit one?**

Realtor Andy Lord 34:00

No.

Attorney Monteleone 34:03

Are you aware of that being expressed by Mr. Rinaldi that he might want something different?

Realtor Andy Lord 34:12

No.

Attorney Monteleone 34:18

Now if I can refer you to exhibit two. What is exhibit two?

Realtor Andy Lord 34:28

It's the executed purchase and sale agreement

Attorney Monteleone 34:30

is, is this? The version? Is this? Essentially the the executed version of what you, the offer you prepared,

Realtor Andy Lord 34:40

yes, it is.

Attorney Monteleone 34:44

I can refer you back and for pages, you'll see a spec sheet, a spec worksheet. It's headed with. Southern maine construction,

Realtor Andy Lord 35:01

yes.

Attorney Monteleone 35:01

And with that page with a with a Photo Rendering,

Realtor Andy Lord 35:04

yep.

Attorney Monteleone 35:05

Now what is, what is this? What is this spec sheet that is attached to the purchase, sale, offer.

Realtor Andy Lord 35:13

This is the original spec sheet of the original designs before he started construction.

Attorney Monteleone 35:18

Okay. Why? Why include a spec sheet at all

Realtor Andy Lord 35:24

in our contract?

Attorney Monteleone 35:24

Correct?

Realtor Andy Lord 35:25

Because anything that's attached to the MLS listing will include as part of the contract.

Attorney Monteleone 35:31

And and so where, where did you get this from?

Realtor Andy Lord 35:34

It was listed on the MLS,

Attorney Monteleone 35:38

and that that MLS was, was that MLS active at the time

Realtor Andy Lord 35:41

the listing was expired.

Attorney Monteleone 35:44

Was there? Did you have access to different versions of this spec sheet?

Realtor Andy Lord 35:52

Yes,

Attorney Monteleone 35:54

at the time you put in your offer?

Realtor Andy Lord 35:56

No, this was the only one at a time of the offer.

Attorney Monteleone 35:58

What was your understanding about why there was only one spec sheet at that state of progress in Mr. Rinaldi's build

Realtor Andy Lord 36:06

my understanding was that this was what he intended to originally build. The property had gone under contract with some different buyers. They had requested the upgrades, and that's what prompted the new scope

Attorney Monteleone 36:17

for what was your understanding about how, how that would be addressed as the project went forward,

Realtor Andy Lord 36:33

in what way

Attorney Monteleone 36:34

meaning in terms of about how this the scope of work outlined within your offer would be. So what would happen with it, given that you would you had seen that a different, a slightly different project was under construction,

Realtor Andy Lord 36:47

yeah, we had requested an updated scope of work.

Attorney Monteleone 36:52

And in your experience, is that someone is that a common, a common practice in new home construction sales

Realtor Andy Lord 36:59

Yes

Attorney Monteleone 37:01

So if I can turn back to the first page of exhibit two, what was, what was the, what was the offer price

Realtor Andy Lord 37:10

\$385,000

Attorney Monteleone 37:12

And how did you determine? How did you and Mr. Pierce determine that \$385,000 was, was the price to offer?

Realtor Andy Lord 37:20

That's what was communicated to us, that the build was going to be since it change from the original MLS listing.

Attorney Monteleone 37:28

And when was that? When was the offer presented?

Realtor Andy Lord 37:42

August. 18, 2020 I'm sorry, August 15, 2020

Attorney Monteleone 37:46

and did, did Mr. Rinaldi accept that offer?

Realtor Andy Lord 37:49

He did.

Attorney Monteleone 37:50

And did Mr. Rinaldi make a counter offer

Realtor Andy Lord 37:53

he did not?

Attorney Monteleone 37:58

Is exhibited after the parties had signed it, did you have an opportunity to review and confirm that those digital signatures were effective?

Realtor Andy Lord 38:13

Well, we have software that confirms it

Attorney Monteleone 38:18

and is exhibit two, a true and accurate copy of the executed purchase and sale agreement that was signed August 18, 2020,

Realtor Andy Lord 38:28

yes , it is

Attorney Monteleone 38:30

move for admission of exhibit two.

Justice Daniel Billings 38:33

Any objections Mr Rinaldi

Defendant Rinaldi 38:34

Nope,

Justice Daniel Billings 38:36

it's admitted without objection

Attorney Monteleone 38:40

now I'd like to turn and discuss the process of the corrected spec sheet that came later. Did you or Mr. Pierce ever request changes to the build that Mr. Rinaldi was was undertaking.

Realtor Andy Lord 39:01

No.

Attorney Monteleone 39:04

What were your thoughts about, about what Mr. Rinaldi was building at this point,

Realtor Andy Lord 39:11

at this point, at this point, yeah, he thought it was going to be a great house. That's what he wanted.

Attorney Monteleone 39:19

After you went under contract? Did you have the opportunity to observe what Mr. Rinaldi how Mr. Rinaldi had kind of proceeded with the construction?

Realtor Andy Lord 39:28

Yes,

Attorney Monteleone 39:29

and did. Did Mr. Rinaldi do anything to suggest that he was, he was changing the build, in other words, to be to go on a different track, to build something different than what he had described to you as what he was intending to build before you offered the contract.

Realtor Andy Lord 39:45

No, he didn't.

Attorney Monteleone 39:51

Did you have opportunity to observe continued work on some of the modified features that he had described?

Realtor Andy Lord 39:58

Yes,

Attorney Monteleone 39:59

such as what.

Realtor Andy Lord 40:01

the farmers porch and the room above the garage, specifically,

Attorney Monteleone 40:05

right? So. So, for example, are you aware that did Mr Rinaldi? If I can clarify work continued on those features beyond what you had seen when you presented the contract, or when you saw the property before making an offer?

Realtor Andy Lord 40:23

Yes.

Attorney Monteleone 40:26

Now, how did the corrected spec sheet come to be?

Realtor Andy Lord 40:31

Well, we had requested the corrected spec sheet early in the transaction, and then ultimately we needed it to provide it to the real estate appraiser,

Attorney Monteleone 40:39

so I can turn you to exhibit three. What is exhibit three?

Realtor Andy Lord 40:52

It's an email from Matt Dibiase with the updated spec sheet.

Attorney Monteleone 40:57

Okay, and I Okay, what did you do from exhibit three as to the source of the correct spec

Realtor Andy Lord 41:10

says it came from Mr. Rinaldi's email.

Attorney Monteleone 41:13

And what day? What day was that?

Realtor Andy Lord 41:16

September 13, 2020,

Attorney Monteleone 41:20

if I can ask you a question, there is a reference at the top, kind of in the middle of that email page, to another email that was sent in May of 2021. Is that. Did that relate to kind of compiling documents for this case? At that point in time, when that, when the case was, was pending,

Realtor Andy Lord 41:45

I'm not sure.

Attorney Monteleone 41:46

Okay. Now, if I can ask you to turn two pages, two pages into exhibit three, and we're looking at, we're looking at it, at a document. So what is, what is this portion of exhibit three? What are we looking at

Realtor Andy Lord 42:20

this is what we expected to be built.

Attorney Monteleone 42:23

Was, was this the attachment to the email? Yes. And in what respects Did you recognize that the corrected spec sheet changed the change the specs?

Realtor Andy Lord 42:36

So the two big changes here, the room above the garage and the farmer's porch on the front

Attorney Monteleone 42:42

did the rendering change

Realtor Andy Lord 42:44

from the original contract

Attorney Monteleone 42:46

Correct?

Realtor Andy Lord 42:46

Yes.

Attorney Monteleone 42:52

Now is exhibit three, a true and correct copy of the email and attachments that you received from this Rinaldi's agent.

Realtor Andy Lord 43:00

Yes, it is.

Attorney Monteleone 43:02

And do you regularly maintain, receive, maintain these kind of emails as part of your your sales transactions?

Realtor Andy Lord 43:11

Yes,

Attorney Monteleone 43:13

move admission to exhibit three,

Justice Daniel Billings 43:16

Any objection. It's admitted without objection.

Attorney Monteleone 43:21

Now you mentioned before that the timing was just before the appraisal that correct?

Realtor Andy Lord 43:29

Yes.

Attorney Monteleone 43:34

Why was there? Why was an appraisal happening at this stage, this early stage of proceeding in September of 2020,

Realtor Andy Lord 43:42

so in order for the bank to move forward with their loan application process, they need to have initial appraisal done to make sure the value is there for what they're lending on.

Attorney Monteleone 43:53

So what interest did Mr. Rinaldi have in ensuring that specs were accurately stated prior to the appraisal.

Realtor Andy Lord 44:04

Well if the, if the specs weren't accurately stated that the bank may not find that there's not sufficient value, and then at that point, we would need to renegotiate the contract or reduce the price.

Attorney Monteleone 44:18

In other words, is if the, if the bank value comes comes below the price, does that change Mr. Pierce's obligation under the contract?

Realtor Andy Lord 44:30

Yes.

Attorney Monteleone 44:43

Now, when you received the correct spec sheet in Exhibit three, what did you do with it?

Realtor Andy Lord 44:50

I provided the real estate appraiser.

Attorney Monteleone 44:53

Did you? Did you provide it to your clients?

Realtor Andy Lord 44:56

I did

Attorney Monteleone 44:57

and and what happened with that?

Realtor Andy Lord 44:59

I asked them to sign it

Attorney Monteleone 45:01

Why is that?

Realtor Andy Lord 45:03

Because any anything we process through the transaction, we want to acknowledgement on that they've reviewed it

Attorney Monteleone 45:11

and did, did, Drew and Janice, as the buyers, in fact, approve the correct spec sheet

Realtor Andy Lord 45:20

they did.

Attorney Monteleone 45:21

And how do you if I can refer you to exhibit four, let me understand how they demonstrated their their agreement and confirmation of the correct spec sheet,

Realtor Andy Lord 45:35

because they electronically initialed the spec sheet

Attorney Monteleone 45:37

and where. Where is that at?

Realtor Andy Lord 45:39

It's on the last page on the bottom. ,

Attorney Monteleone 45:45

now there's a number of blank pages that follow that. What are those blank pages?

Realtor Andy Lord 45:53

I don't know what those are.

Attorney Monteleone 45:55

Were those part of the original document that you received from from Mr. Rinaldi's agent?

Realtor Andy Lord 45:58

Yes.

Attorney Monteleone 46:00

Is that why they appear as in this executed version of of the confirmed, actually,

Realtor Andy Lord 46:08

yes,

Attorney Monteleone 46:09

the corrective actually, excuse me, When was it that that drew and janice signed the correct spec sheet.

Realtor Andy Lord 46:27

September 14, 2020,

Attorney Monteleone 46:32

meanwhile, when did the appraiser visit the property?

Realtor Andy Lord 46:37

I'd have to look at the appraisal.

Attorney Monteleone 46:40

Refer you to exhibit five,

Realtor Andy Lord 46:47

September 14, 2020,

Attorney Monteleone 46:48

and are you aware whether the appraisal that occurred relied on the corrected spec sheet in any way.

Realtor Andy Lord 47:04

Can I review it,

Attorney Monteleone 47:07

please.

Realtor Andy Lord 47:21

It includes the corrective, corrective spec sheet.

Attorney Monteleone 47:28

Does it provide any identification about the size of the build or the number of bedrooms?

Realtor Andy Lord 47:35

Yes, it does.

Attorney Monteleone 47:36

Where is that at?

Realtor Andy Lord 47:37

So after the first page of the spec sheet, there's a measured floor plan.

Attorney Monteleone 47:52

Right? Could you identify on exhibit five where that's at?

Realtor Andy Lord 48:02

It's the page after the rendering,

Attorney Monteleone 48:17

okay, but it also just in terms of, you know that front page summary of the text that was that information provided there incorporated into the appraisers report there as well. And what's your understanding about how that what in what role that information played in terms of the appraiser's ultimate determination of a value to fund the loan.

Realtor Andy Lord 48:46

So what the appraiser would do is they'd find a comparable sold properties that meet the same criteria as far as number of bedrooms, bathrooms, square footage, level of finish

Attorney Monteleone 49:00

is exhibit five, a true and correct copy of the appraisal that you received in this transaction.

Realtor Andy Lord 49:06

Yes , it is,

Attorney Monteleone 49:08

our appraisals regularly prepared in the regular course of real estate transactions.

Realtor Andy Lord 49:14

Yes, they are.

Attorney Monteleone 49:17

Are they typically drafted at or near the time, the date that's shown on there, shown on the page.

Realtor Andy Lord 49:25

Yes.

Attorney Monteleone 49:28

And do you maintain copies of of appraisals as part, as part of you know, your maintenance of transaction files?

Realtor Andy Lord 49:38

Yes,

Attorney Monteleone 49:40

then I move for admission of exhibit five.

Justice Daniel Billings 49:44

Mr. Rinaldi, any objection?

Defendant Rinaldi 49:45

I don't believe. So I No, I don't believe. So, just that. Appraisal from discovery, correct,

Attorney Monteleone 49:52

correct,

Defendant Rinaldi 49:52

yeah, no, I have no issues for that.

Justice Daniel Billings 49:54

It's admitted without objection.

Attorney Monteleone 49:58

Does the appraisal include? updated pictures about where construction stood in, I guess in progress as of as of September.

Realtor Andy Lord 50:10

Yes, it does.

Attorney Monteleone 50:11

Can you identify where that's where that's at?

Realtor Andy Lord 50:15

It's on the page after the map.

Attorney Monteleone 50:23

Okay, so I'm looking at, I think, if I'm looking at the page that at the bottom, it says Pierce 244,

Realtor Andy Lord 50:33

that's correct.

Attorney Monteleone 50:34

And so looking at that photo at the top, what? What are we looking at in that photo.

Realtor Andy Lord 50:40

That's the front side of the building,

Attorney Monteleone 50:42

okay? And does, does the photo at the top of page 244, is that? Is that? Did you well? Did you have the opportunity to to visit the site in mid September?

Realtor Andy Lord 50:55

Yes, I did.

Attorney Monteleone 50:56

And does the photo on page 244, reasonably reflect, accurately reflect, what that what construction looked like as of the middle of September of 2020,

Realtor Andy Lord 51:06

yes, it does

Attorney Monteleone 51:09

so looking at that photo, what do you identify to understand that Mr. Rinaldi proceeded with the build that he described to you.

Realtor Andy Lord 51:18

I can see the foundation, the framing for the farmer's porch, and I can see the gable end on the top of the garage.

Attorney Monteleone 51:26

And was that design consistent with the what was provided in the corrected spec sheet?

Realtor Andy Lord 51:32

Yes, it is.

Attorney Monteleone 51:34

And that was the corrected spec sheet that you received one day before the appraiser went to the site, that's

Realtor Andy Lord 51:41

correct.

Attorney Monteleone 51:52

Now, did you take make any note of what the appraisal identified in terms of the paving of the driveway. How the driveway was going to be developed.

Realtor Andy Lord 52:16

Says driveway surface paved.

Attorney Monteleone 52:18

And can you identify where that's at?

Realtor Andy Lord 52:20

It's on the bottom two thirds under materials condition,

Attorney Monteleone 52:26

then on the far on the far right hand side,

Realtor Andy Lord 52:28

yup

Attorney Monteleone 52:29

Okay. It says driveway surface paved. Okay. What's your understanding as to why reference to a paved driveway is incorporated in the appraisal

Realtor Andy Lord 52:44

because that adds value to the property.

Attorney Monteleone 52:47

Now did was that something that the appraiser just hoped to have?

Realtor Andy Lord 52:51

No it was outlined in the spec sheet,

Attorney Monteleone 52:53

right? And how was it outlined? In the spec sheet, if I can refer you back to exhibit four.

Realtor Andy Lord 53:18

Under driveway. It says black top.

Attorney Monteleone 53:21

Okay, are we looking at the page that's just before, just before the the signature boxes?

Realtor Andy Lord 53:27

Yes, we are.

Attorney Monteleone 53:29

So again, says driveway blacktop.

Realtor Andy Lord 53:31

Yes?

Attorney Monteleone 53:33

Is that? Is the term calling for a blacktop driveway. Is that? Is that unique to the corrected spec sheet?

Realtor Andy Lord 53:42

No, that was on the original spec sheet too. I believe.

Attorney Monteleone 53:54

Now, did the contract require drew to provide confirmation of his of his loan application.

Realtor Andy Lord 54:03

Yes.

Attorney Monteleone 54:04

Is that a common term of a financing contingency in a real estate contract?

Realtor Andy Lord 54:08

Yes, it is.

Attorney Monteleone 54:10

So if I can refer you to exhibit six. What is exhibit six?

Realtor Andy Lord 54:18

This is the made application letter from the lender, right?

Attorney Monteleone 54:22

And how? How do you know this is from the lender.

Realtor Andy Lord 54:26

It was email from Sarah McDonald.

Attorney Monteleone 54:29

And did you have other interactions with Sarah McDonald to understand that she was, she was a representative of Drew's lender,

Realtor Andy Lord 54:34

yes.

Attorney Monteleone 54:35

And does the materials that that Ms McDonald provided satisfy the obligations identify under the contract the status of a loan application?

Realtor Andy Lord 54:58

Yes, it does. I.

Attorney Monteleone 55:00

And were you able to determine whether or not rinaldi's agent received a copy of the made application letter?

Realtor Andy Lord 55:12

Yes, he's copied on the email.

Attorney Monteleone 55:15

And can you identify where that is at on exhibit six,

Realtor Andy Lord 55:19

yeah, at the first page at the top, it says matt@landinghomesmaine.com

Attorney Monteleone 55:36

exhibit six, a true copy of the email materials that you receive from the lender,

Realtor Andy Lord 55:43

yes, it is

Attorney Monteleone 55:44

and are made application letters routinely prepared and transmitted and real estate transactions,

Realtor Andy Lord 55:51

yes .

Attorney Monteleone 55:52

And as a broker, you receive copies of you routinely receive copies of made application letters,

Realtor Andy Lord 55:57

yes,

Attorney Monteleone 55:58

and you ensure their timely delivery to the other agent,

Realtor Andy Lord 56:02

yes,

Attorney Monteleone 56:03

and to maintain copies of made application letters in your in your transaction records,

Realtor Andy Lord 56:09

yes,

Attorney Monteleone 56:10

move admission of plaintiff. Six,

Defendant Rinaldi 56:12

I object. It's not the original, it's a forwarded email. If it was identical, I would have no issue. But it's not. Supported by Andy Laura his email signatures at the bottom, Sarah McDonald's email signatures on the top. Nor is there an attachment.

Attorney Monteleone 56:37

I think the testimony has i I can ask the follow up question to clarify your honor.

Justice Daniel Billings 56:50

Well, the first thing I'm confused about is exhibit six. It indicates this is what I'm looking at. So I'm just trying to understand the objection Mr. Rinaldi, yeah, it says from Sarah McDonald to Drew Pierce Janice Lariviere you know Matt at landing, and Andy at landing?

Defendant Rinaldi 57:09

Yep. So if you go down to the bottom, it'll say Andy, Lord, Associate Broker. So it should say her email signature sent from her. Oh, I see, yeah. So it's not, and we, I think we discussed it. He said the forward section was removed for clarity, or something along those lines, during the motion to vacate. So not only is it not the original, but there's a section removed, and there's no if you look at the email, there's no attachments linked to it, it would be listed on the email. It's not so that attachment is not part of it.

Justice Daniel Billings 57:52

Mr. Monteleone,

Attorney Monteleone 57:55

I'm happy to ask some ask follow up questions to clarify these points.

Justice Daniel Billings 58:00

Okay, go ahead.

Attorney Monteleone 58:04

exhibit six. This come from your files. Yes. And in the course of this, this transaction in in your role as Mr. A point in time in which you were acting as Mr. Pierce's agent. Did you have have reason to to forward documents to me as Mr. Pierce's counsel?

Realtor Andy Lord 58:29

Yes.

Attorney Monteleone 58:32

Did you, in fact, forward emails that that forward exhibit six to me?

Realtor Andy Lord 58:39

Yes .

Attorney Monteleone 58:43

I and to clarify what we're looking at on the page marked exhibit 51 was exhibit 51 attached to the email that's headed in which it says that a copy of the made application letter is attached.

Realtor Andy Lord 58:58

Yes.

Attorney Monteleone 59:02

And with that, I again renew the motion to move to admit

Defendant Rinaldi 59:06

They sent other evidence, and they sent the originals. I don't see why he'd need to forward it when he could just send the copy of the original. And they did it with all many other things. It just seems odd that for this one, they forwarded it, and then Monteleone James removed a section of it, so that's missing the forwarded section as well. So it just seems odd that they would forward it when they didn't need to.

Justice Daniel Billings 59:34

What about that? It's incomplete

Attorney Monteleone 59:38

It's missing the attorney client communication at the top of page in which a client's agent communicated with the attorney about the document.

Defendant Rinaldi 59:48

What about the forwarded section? That's not really something that needs to be removed.

Attorney Monteleone 59:52

That's not it's and that's why the forwarded section is there, because it's not communicating any legal information.

Justice Daniel Billings 59:58

So the. Anything else. Mr. Rinaldi

Defendant Rinaldi 1:00:02

I'm fine.

Justice Daniel Billings 1:00:04

I understand the objection. The admissibility rules on business records are quite forgiving, particularly electronic records these days, and I believe the plaintiff has made appropriate showing for admissibility of the document, obviously, if there's concerns about completeness or accuracy, those are completely fair topics for cross examination or examination of other witnesses who may have knowledge about this, but it will be admitted as a business record.

Defendant Rinaldi 1:00:39

Thank you.

Justice Daniel Billings 1:00:39

Yeah , you can continue.

Attorney Monteleone 1:00:44

I'd like to turn and discuss some of the project timing and the delays that were experienced. When did the contract originally call to be closed? In other words, for the bill to be completed and the sale to be closed?

Realtor Andy Lord 1:01:00

Can I reference the original purchase sale agreement?

Attorney Monteleone 1:01:02

Sure, if I could refer you back to exhibit two.

Realtor Andy Lord 1:01:07

It was expected to close November 12, 2020,

Attorney Monteleone 1:01:13

did that happen?

Realtor Andy Lord 1:01:14

Did not.

Attorney Monteleone 1:01:15

Was it? Was it close to happening?

Realtor Andy Lord 1:01:17

No,

Attorney Monteleone 1:01:18

why not?

Realtor Andy Lord 1:01:19

The bill just wasn't moving forward very quickly.

Attorney Monteleone 1:01:23

What was happening.

Realtor Andy Lord 1:01:27

Nothing was getting done. It was just kind of paused at that point.

Attorney Monteleone 1:01:35

What was what was your What was your perception? That question, did you have experience working with other kind of spec, build, design, build, Purchase and Sale contracts before as a program?

Realtor Andy Lord 1:01:50

Yes

Attorney Monteleone 1:01:51

So relative to that experience, what was your perception about Mr. Rinaldi? He's organization as as a contractor,

Realtor Andy Lord 1:02:02

it was terrible.

Attorney Monteleone 1:02:04

Could you could you elaborate? What do you mean? Why?

Realtor Andy Lord 1:02:10

Well, they went through the whole winter with no heat or power at the property. That does limit, you know what you could do, as far as any drywall or paint, none of that can be frozen. Materials were under snow banks. The yard hadn't been graded. There was no driveway, there was no plumbing.

Attorney Monteleone 1:02:32

So what was, what was your perception about the way, the manner in which Mr. Rinaldi sequenced the project.

Realtor Andy Lord 1:02:42

My impression was there was some there were some things that were out of order.

Defendant Rinaldi 1:02:48

I'm going to object, he's an expert witness on this. I mean, he's an expert for real estate, but not for building.

Attorney Monteleone 1:02:54

He's speaking to his his observations of what was happening with this project relative to what he's seen with other projects. So it's a direct observation.

Justice Daniel Billings 1:03:11

I'll consider it a lay opinion from his personal experience.

Attorney Monteleone 1:03:18

So what was I mean, what did, what would what was your perception as to the manner in which the project was, was being sequenced in order to maximize efficiency?

Realtor Andy Lord 1:03:34

Well, there are no subcontractors lined up for any of the things that Mr. Rinaldi wasn't going to do. There was very little, if any, materials, on site he would make, go get what materials he needed for the day and come back and complete part of the project. But it wasn't, it wasn't laid out on a timeline that we would normally see.

Attorney Monteleone 1:03:59

As a result, what was, what was necessary in terms of the contract terms as to the timing of closing,

Realtor Andy Lord 1:04:08

we had to extend the closing.

Attorney Monteleone 1:04:10

So how was, when did that first, when did that issue first arise,

Realtor Andy Lord 1:04:16

as we were getting closer to the anticipated closing date and realized that it was not going to happen,

Attorney Monteleone 1:04:23

alright, and at that point in time, what was Mr. Rinaldi telling you in terms of when it would happen, how far off he was from getting it done,

Realtor Andy Lord 1:04:30

we were always a couple weeks away.

Attorney Monteleone 1:04:32

What do you mean

Realtor Andy Lord 1:04:33

every time we'd ask when this is to be done, it's just just a few more weeks, just a few more weeks.

Attorney Monteleone 1:04:39

So what's your understanding about status of Drew's loan at the time the loan he was he had applied for was approved for, at the time that you missed the November closing

Realtor Andy Lord 1:04:58

Well, at that point you. Interest rates had started to climb back up, and he risked having a higher interest rate which would affect his ability to purchase the property

Attorney Monteleone 1:05:08

correct. So, so what? What happened with that? How did, how was that issue addressed?

Realtor Andy Lord 1:05:16

So we proposed a that Mr Rinaldi pay the difference, and we would lock the rate. Essentially, the lender would guarantee the original interest rate in Mr. Rinaldi would pay the penalty. I guess you'd call it to maintain that.

Attorney Monteleone 1:05:32

Okay, so why is that? Why? Why is Mr. Rinaldi being asked to pay pay that and not Mr. Pierce paying it himself?

Realtor Andy Lord 1:05:40

Because the project so far behind, we had no idea what it was going to be completed.

Attorney Monteleone 1:05:45

Would that have been necessary? The project was on time?

Realtor Andy Lord 1:05:47

No,

Attorney Monteleone 1:05:50

I can refer you to exhibit seven. What is exhibit seven,

Realtor Andy Lord 1:06:00

The addendum, outlining the rate lock

Attorney Monteleone 1:06:08

and what was, what was the purpose of exhibit seven?

Realtor Andy Lord 1:06:11

This is what the fee from the lender would be to guarantee the original interest rate.

Attorney Monteleone 1:06:16

Right. who drafted exhibit seven?

Realtor Andy Lord 1:06:27

I did,

Attorney Monteleone 1:06:28

and was it signed by the parties?

Realtor Andy Lord 1:06:30

Yes, it was.

Attorney Monteleone 1:06:35

And when did? When did Mr. Rinaldi sign it?

Realtor Andy Lord 1:06:39

November, 30 2020.

Attorney Monteleone 1:06:43

In short, what did, really, in short summary, what did exhibit seven provide for,

Realtor Andy Lord 1:06:48

by the, at closing, there would be a credit from the seller to compensate for the additional days past the end of the rate lock, the rate expiration

Attorney Monteleone 1:07:00

And at the point in time that you signed exhibit seven, that the party signed exhibit seven, at the end of November, when did you anticipate closing?

Realtor Andy Lord 1:07:09

I'd have to see the most recent extension at that point.

Attorney Monteleone 1:07:13

What I mean, in other words, what was Mr Rinaldi expressing to you in terms of how far away he was from being done?

Realtor Andy Lord 1:07:20

We weren't very far away.

Attorney Monteleone 1:07:22

So was it? Was it expected that this rate lock extension would impose a significant expense on Mr. Rinaldi?

Realtor Andy Lord 1:07:31

No

Attorney Monteleone 1:07:41

are addendums such as Exhibit seven among the contract documents that you regularly prepare and maintain as part of a transaction.

Realtor Andy Lord 1:07:50

Yes,.

Attorney Monteleone 1:07:52

In case I didn't already ask specific seven is a true copy of the executed rate lock extension?

Realtor Andy Lord 1:07:59

Yes, it is.

Attorney Monteleone 1:08:00

I move for admission appointed seven.

Justice Daniel Billings 1:08:03

It's admitted without objection.

Attorney Monteleone 1:08:10

I can refer you to exhibit eight. What is exhibit eight?

Realtor Andy Lord 1:08:21

The possession prior to closing addendum,

Attorney Monteleone 1:08:23

right? Why was, why was a possession prior to closing addendum necessary in this case,

Realtor Andy Lord 1:08:29

to so the Drew can move into the house?

Attorney Monteleone 1:08:35

But why was it necessary for for Drew to have some measure of possession of the of the property,

Realtor Andy Lord 1:08:44

because he was moving furniture in there, he had no other place to put it.

Attorney Monteleone 1:08:50

Was that a function of of the timing of project, given that you were in February?

Realtor Andy Lord 1:08:56

Yes, it was,

Attorney Monteleone 1:08:57

in other words, did? Did the did Drew's need relate to delays that you experience.

Realtor Andy Lord 1:09:04

Yes,

Attorney Monteleone 1:09:11

now, what were, and that's what are the terms that exhibit eight provided

Realtor Andy Lord 1:09:26

it. It provides some occupancy of the property.

Attorney Monteleone 1:09:30

Did it require that Mr. Pierce pay any rent?

Realtor Andy Lord 1:09:34

No

Attorney Monteleone 1:09:34

on that.

Realtor Andy Lord 1:09:37

No.

Attorney Monteleone 1:09:38

Why? Why is that fair, that that seems, that seems one sided.

Realtor Andy Lord 1:09:48

I don't know. I mean,

Attorney Monteleone 1:09:50

if I can, you know, but I understand is that, to what extent would this have been necessary, if the project was on time?

Realtor Andy Lord 1:09:58

No, it would not have.

Attorney Monteleone 1:10:00

Right. So, are you aware, if Drew in fact, took possession in order to store his property at the at the house

Realtor Andy Lord 1:10:21

he did.

Attorney Monteleone 1:10:22

It's exhibit eight, a true and accurate copy of the possession prior to closing addendum that's executed,

Realtor Andy Lord 1:10:29

yes, it is

Attorney Monteleone 1:10:30

I move for a admission of plaintiffs eight,

Justice Daniel Billings 1:10:33

Objection, without objection,

Attorney Monteleone 1:10:41

now the closing date. How many times was the closing date extended out

Realtor Andy Lord 1:10:51

multiple

Attorney Monteleone 1:10:55

a rough estimate of how many times that had to happen versus the original closing date that was scheduled

Realtor Andy Lord 1:11:00

four to five.

Attorney Monteleone 1:11:01

I'm sorry you said four to five,

Realtor Andy Lord 1:11:02

yes .

Attorney Monteleone 1:11:07

And were any of those? Were any of those extensions through up until the point in time that you were in March? Were any of those extensions due to delays that that Drew had caused, that the buyer had had caused on the project?

Realtor Andy Lord 1:11:27

None, no.

Attorney Monteleone 1:11:30

So if I can refer you to exhibit nine, when was ultimately, when was? When was the final closing date extended through

Realtor Andy Lord 1:11:42

March 5, 2021,

Attorney Monteleone 1:11:46

and was, was an extension through that date signed by the parties.

Realtor Andy Lord 1:11:54

Yes , it was.

Attorney Monteleone 1:11:55

Is exhibit nine, a true copy of that extension.

Realtor Andy Lord 1:11:58

Yes, it is

Attorney Monteleone 1:12:01

move for admission of plaintiffs nine,

Justice Daniel Billings 1:12:05

it's admitted. Thank you. Submitted without objection

Attorney Monteleone 1:12:11

All right, I can like to turn again and now talk about some of the escrows that were factored into the contract you had mentioned earlier, testified earlier as to the the appraisal that happened in September.

Realtor Andy Lord 1:12:32

Yes,

Attorney Monteleone 1:12:34

was, was additional appraisal work necessary for this transaction?

Realtor Andy Lord 1:12:39

Yeah, there would always be a final

Attorney Monteleone 1:12:42

why is that

Realtor Andy Lord 1:12:45

to ensure that the original appraisal that was presented to the lender, that the project is completed in that manner, and there's the values there?

Attorney Monteleone 1:12:56

Okay, so it relates to basic confirmation of the financing

Realtor Andy Lord 1:13:02

correct.

Attorney Monteleone 1:13:05

So was a final appraisal done in this case?

Realtor Andy Lord 1:13:08

Yes, it was,

Attorney Monteleone 1:13:09

if I can turn you to exhibit 10. What is exhibit 10

Realtor Andy Lord 1:13:17

is the final appraisal,

Attorney Monteleone 1:13:19

and when was that? When was that final appraisal performed?

Realtor Andy Lord 1:13:25

February, 21 2021,

Attorney Monteleone 1:13:36

did the final appraisal. Maybe, before we get there, can I confirm that is exhibit 10, a true and accurate copy of the appraisal report that you received in the course of this transaction?

Realtor Andy Lord 1:13:51

Yes, it is

Attorney Monteleone 1:13:54

move for admission of plaintiffs exhibit 10.

Justice Daniel Billings 1:13:58

Objection,

Defendant Rinaldi 1:13:59

no objections.

Justice Daniel Billings 1:13:59

It's admitted.

Attorney Monteleone 1:14:03

Now Were any issues identified with the final the final appraisal in terms of the project? The build?

Realtor Andy Lord 1:14:15

Yes.

Attorney Monteleone 1:14:15

What were those issues

Realtor Andy Lord 1:14:17

that the landscaping, driveway, paving and some exterior painting and trim cannot be completed due to the weather.

Attorney Monteleone 1:14:24

Okay, help me. Can you? Can you identify where that issue is discussed in

Realtor Andy Lord 1:14:30

the middle of the second page under certification of completion?

Attorney Monteleone 1:14:45

Okay, now, what was, if we can just identify kind of go through those, those issues separately, so as to the as to the loaming. Okay, the seeding, right? What was, what was the issue? The issue there,

Realtor Andy Lord 1:15:04

the reason it couldn't be done,

Attorney Monteleone 1:15:10

if I can, if I can, clarify it's, is it? Why is it identified as an issue?

Realtor Andy Lord 1:15:14

Because it's in the original scope of work, and it's not been completed yet.

Attorney Monteleone 1:15:20

So what is? What's the solution when you're otherwise ready to close and work is not yet completed that was contracted for?

Realtor Andy Lord 1:15:30

So oftentimes we would escrow for that and have it done in the spring when weather permits.

Attorney Monteleone 1:15:37

Can you just elaborate a bit on on what that means when you say escrow for it.

Realtor Andy Lord 1:15:42

So we would withhold some of the proceeds of the sale from the seller in as the projects are completed. That money would be released to pay for it,

Attorney Monteleone 1:15:52

right? And what happens if there's any money left in terms of it, if the work ends up being done for less than the escrow account holding

Realtor Andy Lord 1:16:00

Yeah, it would go back to the seller.

Attorney Monteleone 1:16:08

So we had the, you know, the the loaming and seeding wasn't completed. What other issues were were identified,

Realtor Andy Lord 1:16:16

as far as the appraisal.

Attorney Monteleone 1:16:18

In the appraisal, in terms of what was recommended for escrow?

Realtor Andy Lord 1:16:21

It would be the driveway, the landscaping, some exterior painting and exterior trim painting.

Attorney Monteleone 1:16:29

Okay, so bear with me here. So we start with the landscaping right, yep. Now the driveway. What was the issue with the driveway?

Realtor Andy Lord 1:16:39

It was just dirt at that point.

Attorney Monteleone 1:16:41

Okay, by dirt do you mean gravel,

Realtor Andy Lord 1:16:44

yeah, like gravel?

Attorney Monteleone 1:16:47

Was it blacktop?

Realtor Andy Lord 1:16:49

It was not.

Attorney Monteleone 1:16:50

What is blacktop ?

Realtor Andy Lord 1:16:52

Asphalt paving?

Attorney Monteleone 1:16:56

And that wasn't. That wasn't, that wasn't completed at the time. No, it wasn't. Was it possible to complete?

Realtor Andy Lord 1:17:06

I don't believe any of the asphalt plants were open at that in February.

Attorney Monteleone 1:17:15

Now and then, as to the as to the painting, what's the issue with the painting

Realtor Andy Lord 1:17:21

It was too cold to paint outside. The paint wouldn't have adhered

Attorney Monteleone 1:17:25

okay now, but technically it was painted. Why is why is that not not sufficient to to check the box?

Realtor Andy Lord 1:17:40

Well, there's several different colors of siding, and some of the term needed more paint.

Attorney Monteleone 1:17:45

And ultimately, who is it? Who is it that determines whether, whether work is completed, sufficient to satisfy the contracts terms, is that the is that the which of the parties that's involved in this make is able to make that determination say, Okay, this is, this this item is satisfactory.

Realtor Andy Lord 1:18:07

The appraiser would do that.

Attorney Monteleone 1:18:12

Why doesn't the seller, the builder, do that?

Realtor Andy Lord 1:18:17

They should

Attorney Monteleone 1:18:19

now, in other words, why isn't the determination of whether it's been done sufficiently done made by that by the builder, as opposed to the appraiser?

Realtor Andy Lord 1:18:29

Well, if the appraiser is enforcing the contract and the spec sheet as it was written, sure there's no shortcuts.

Attorney Monteleone 1:18:41

All right, now when the appraisal, when exhibit 10 came out, did, did Mr. Rinaldi's Agent receive a copy of exhibit 10,

Realtor Andy Lord 1:19:04

I don't know

Attorney Monteleone 1:19:05

what was, did you come come to be aware that that Mr. Rinaldi's agent was aware of the escrow withholding?

Realtor Andy Lord 1:19:11

Yes,

Attorney Monteleone 1:19:11

how? So

Realtor Andy Lord 1:19:13

we had a discussion about it,

Attorney Monteleone 1:19:16

and and when was that?

Realtor Andy Lord 1:19:19

Would have been soon after we received the appraisal.

Attorney Monteleone 1:19:21

Okay, so was that? Was that in mid February, in early March,

Realtor Andy Lord 1:19:29

probably late February,

Attorney Monteleone 1:19:32

at that point in time, did was there any objection raised by Mr. Rinaldi as to the escrow withholdings?

Realtor Andy Lord 1:19:40

No.

Attorney Monteleone 1:19:44

Was there was Was there anything? Was there any discussion about from Mr. Rinaldi about tweaking or changing, modifying the escrow matters in any way,

Realtor Andy Lord 1:19:58

not at that point.

Attorney Monteleone 1:19:59

No in your experience, how have you found sellers that object to escrow holdings? How are those? How are those typically addressed in the normal course of a of a transaction?

Realtor Andy Lord 1:20:16

Well, if a seller objects to it, we've explained to them that this, this has to be done, or else we can't close on the on the project, okay?

Attorney Monteleone 1:20:24

And if there's an objection, how does it go about getting resolved?

Realtor Andy Lord 1:20:27

We'd have to negotiate it. And then ultimately, if we couldn't come to agreement, we'd have to go to mediation.

Attorney Monteleone 1:20:35

Well, let me ask you more clearly. Let's say, if there's an error, everyone makes an error. So if there's, if there's an error that's on the appraisal and something is erroneously being included in escrow, what is the process entailed to get that error corrected and then have it, have it removed from it from escrow,

Realtor Andy Lord 1:20:53

we'd have to request it, excuse me, from the lender. They'd have to contact the appraiser to see if that adjustment is valid.

Attorney Monteleone 1:21:02

Does the does the appraiser have to do, do follow up work on that

Realtor Andy Lord 1:21:07

they would they essentially have to redo the appraiser. So if we're, if we're looking at something that's got a paved driveway, they'd have to adjust for the value in that versus the comparable properties they used in the appraisal.

Attorney Monteleone 1:21:19

Is that a process that, in your experience, happens quickly.

Realtor Andy Lord 1:21:23

No, it does not.

Attorney Monteleone 1:21:29

And I can just clarify based on your understanding, were any of the Escrows requested by this appraisal exhibit 10, this appraiser, were any of those escrows an error,

Realtor Andy Lord 1:21:42

no,

Attorney Monteleone 1:21:45

what's the basis of that belief?

Realtor Andy Lord 1:21:47

Because these are all things that were in the original scope of work.

Attorney Monteleone 1:21:51

In this in the spec sheet,

Realtor Andy Lord 1:21:52

spec sheet, yeah,

Attorney Monteleone 1:21:53

and is it fair to say that they were actually in both spec sheets.

Realtor Andy Lord 1:21:59

They were,

Attorney Monteleone 1:22:00

I like to turn you to focus on point time when you're approaching closing, when was closing. Ultimately, ultimately,

Realtor Andy Lord 1:22:22

March 5.

Attorney Monteleone 1:22:23

Oh, was there so? Was there a closing date that had been set beforehand?

Realtor Andy Lord 1:22:32

Yes,

Attorney Monteleone 1:22:33

when? When was, let me say, was there a closing date set on March 4?

Realtor Andy Lord 1:22:36

Yes, there was

Attorney Monteleone 1:22:37

so, if you were extended through March 5, why was it closing set for March 4,

Realtor Andy Lord 1:22:43

because that's the day we expected everything to be done.

Attorney Monteleone 1:22:49

So in preparation, as you're in the days before you're closing, did what were issues identified?

Realtor Andy Lord 1:23:02

Yes,

Attorney Monteleone 1:23:04

and when were those issues identified?

Realtor Andy Lord 1:23:08

Well, there was, we did have a home inspection, I believe, the week prior to closing, where issues were identified, and when we went out there, we could see that the yard still wasn't put together, and there's still no driveway. There was still a lot of painting to be done

Attorney Monteleone 1:23:25

at that point in time that you heard, was there still any objection from Mr. Rinaldi about his obligations on on to finish those aspects of the project?

Realtor Andy Lord 1:23:35

No.

Attorney Monteleone 1:23:40

So alta statements, or HUD statements, are often issued at before the end of a closing. What is an alt statement?

Realtor Andy Lord 1:23:53

An Alta is a combined version of essentially a HUD one. It shows both parties all the all the details of the transaction.

Attorney Monteleone 1:24:01

So if I can refer you to exhibit 11, what is exhibit 11?

Realtor Andy Lord 1:24:09

It's the HUD statement,

Attorney Monteleone 1:24:12

and it's identified. And what date was exhibit 11 issued,

Realtor Andy Lord 1:24:19

March 3, 21

Attorney Monteleone 1:24:21

so in other words, is that that's, that's the day before you're closing was scheduled,

Realtor Andy Lord 1:24:26

yes,

Attorney Monteleone 1:24:28

and it and what time when in the day

Realtor Andy Lord 1:24:34

3:36pm,

Attorney Monteleone 1:24:39

so I uh, what's the purpose of of a document like exhibit 11 of immediately before closing?

Realtor Andy Lord 1:24:53

Why do we have it immediately before close?

Attorney Monteleone 1:24:54

Correct?

Realtor Andy Lord 1:24:55

Well, it gives us time to review it with our clients, and for anything that's being escrowed such as taxes and stuff like that, we need to be right at the have them figured out down to the specific date of closing.

Attorney Monteleone 1:25:11

Now, does it identify, does it identify how the sale proceeds are being dispersed?

Realtor Andy Lord 1:25:20

Yes, yes, it does.

Attorney Monteleone 1:25:21

And so what are the types of things that that exhibit 11 demonstrates as as where sale proceeds are being dispersed?

Realtor Andy Lord 1:25:28

Well, it's going to show every expense, any seller credits. It's going to show any mortgages or taxes that are due on the property.

Attorney Monteleone 1:25:42

And did exhibit 11 show the sales price, the contracted sales price correctly,

Realtor Andy Lord 1:25:48

yes.

Attorney Monteleone 1:25:48

And where's that? Where's that shown

Realtor Andy Lord 1:25:51

on the first page under sales price of property

Attorney Monteleone 1:25:54

at the 385,000

Realtor Andy Lord 1:25:56

Yes .

Attorney Monteleone 1:25:59

And it shows that there being a payoff to Machias Savings Bank. Do you know? Do you know what that is?

Realtor Andy Lord 1:26:11

I don't know.

Attorney Monteleone 1:26:14

Okay, there is shows being a payoff to dng construction and property maintenance. You know what that is

Realtor Andy Lord 1:26:20

Yes

Attorney Monteleone 1:26:21

what's that

Realtor Andy Lord 1:26:21

that's a subcontractor that came in at the end,

Attorney Monteleone 1:26:24

okay, did? Did? Did Mr. Pierce request that sub contractor to come in at the end?

Realtor Andy Lord 1:26:30

No.

Attorney Monteleone 1:26:37

And then tell me about the commissions that identifies what's, what's, what's showing these in the commissions.

Realtor Andy Lord 1:26:45

So it's showing what's due to landing real estate for the buyer. Agent, and the sellers.

Attorney Monteleone 1:26:51

In other words, there's one line item for for you as as Mr. Pierce's buyers. Agent, a different line item for Mr. Dibiase, as Mr. Rinaldi sellers agent,

Realtor Andy Lord 1:27:01

correct,

Attorney Monteleone 1:27:06

and does it? What does? Does? Exhibit 11, identify the rate lock that we had, we had discussed

Realtor Andy Lord 1:27:15

Yes, listed under seller credit

Attorney Monteleone 1:27:18

is that the 7392

Realtor Andy Lord 1:27:21

Yes,

Attorney Monteleone 1:27:28

and what does exhibit 11 show as to amounts that Mr. Rinaldi owed on his construction loan. Are you aware of that

Realtor Andy Lord 1:27:38

\$ 145,407.87

Attorney Monteleone 1:27:43

And after all these accounts, all these expenses are accounted for. What did it identify Mr Rinaldi's net sale sales proceed at closing to be

Realtor Andy Lord 1:27:56

2739.26

Attorney Monteleone 1:28:01

All right. How did Mr. Rinaldi respond to the exhibit one statement when it was issued,

Realtor Andy Lord 1:28:19

he expected that he was going to be making more money than that, and essentially refused to sell the house at that point,

Defendant Rinaldi 1:28:25

Objection, hearsay. I had no communication with him at that point.

Justice Daniel Billings 1:28:31

Council,

Attorney Monteleone 1:28:32

well, I could say an opposing party statement, but I think we can. I'm happy to just further further explore that with more specific questions.

Defendant Rinaldi 1:28:44

That's sorry, that's fine. And we did text the following day, but there was no when that happened. There was no communication with us on the fourth, which is what they're discussing, or the third, I'm not sure, whenever I found out about the Alta or Hud

Justice Daniel Billings 1:28:58

okay, I'm going to sustain the objection for now But council continue.

Attorney Monteleone 1:29:01

What was your understanding of Mr rinaldi's response to the exhibit 11 statement being issued?

Realtor Andy Lord 1:29:17

My understanding was that he was not going to come closing.

Attorney Monteleone 1:29:22

And who is that? Who is that communicated to you by

Realtor Andy Lord 1:29:27

by Mr. Rinaldi,

Attorney Monteleone 1:29:38

did any of the details, I mean, any of these expenses, other than the rate lock relate to Drew were these things that Mr. Pierce caused to be here because of some manner that he handled conducted himself over the course of this of this transaction,

Realtor Andy Lord 1:29:56

no

Attorney Monteleone 1:29:57

or something that he had requested over this transaction. And. No, so I'll strike that question, if I can refer you to, was there a point in time subsequently that Mr Rinaldi expressed to you that items shown on the alt statement constituted Mr. Pierce's breach of the contract.

Realtor Andy Lord 1:30:31

No

Attorney Monteleone 1:30:33

Can I, if I can, if I can, refer you to you said it 16. 16. And do you recognize exhibit 16 as a as a correspondence, text message, correspondence involving you, Mr. Rinaldi and Matt Dibiase .

Realtor Andy Lord 1:30:59

Yes.

Attorney Monteleone 1:31:03

I can refer you to the line item number 67 right. Okay, in Exhibit 16 line 67 What's Mr. Rinaldi communicating to you and to his agent?

Realtor Andy Lord 1:31:42

He's saying that the buyers are refusing to honor the contract because asphalt is considered the top coat, and gravel is the aggregate base coat, and that it was warm enough outside to paint.

Attorney Monteleone 1:31:57

All right, so and in seeing Mr. Rinaldi's response here, what efforts were being made to try and address concerns that Mr. Rinaldi had have raised

Realtor Andy Lord 1:32:16

through these messages, we were just trying to work through it.

Attorney Monteleone 1:32:24

And what efforts were made to work through it, in terms of as far as, as far as Mr. Pierce was concerned, what efforts were made to try and work through it.

Realtor Andy Lord 1:32:33

We get to the point where he was willing to take it as is, and he'd finish itself.

Attorney Monteleone 1:32:38

Now, when, when you say, what are you referring to? The the escrow work or or other things,

Realtor Andy Lord 1:32:47

we were at the point where we're willing to to see if the lender would release the escrow. He would take it as is

Attorney Monteleone 1:32:54

okay. And Did, did you ever, did you ever promise to Mr Rinaldi that that you would do that, or that Mr. Pierce would would do that, that you, that you would remove the escrow.

Realtor Andy Lord 1:33:07

Well, it's not up to me to remove the escrow. I can ask to have it removed, and then we start the process of an appraisal, most likely all over again. But it's, it's not something that's in my power.

Attorney Monteleone 1:33:17

So what, what happened when you, when you attempted to to have the paving removed.

Realtor Andy Lord 1:33:23

So I asked the lender, you can have it removed, and he told me that he wasn't something he could do quickly. He'd have to get with the appraiser to do it, to see if it could even be done

Attorney Monteleone 1:33:37

and and what did you find, in in part, as part of that effort, what did you find in terms of whether it could be done?

Realtor Andy Lord 1:33:48

It couldn't.

Attorney Monteleone 1:33:49

Why not?

Realtor Andy Lord 1:33:49

We didn't have the time.

Attorney Monteleone 1:33:52

So, as Mr. Rinaldi has expressed his his legal interpretation of the contract and contractual obligations to you. Did you respond to him to express your your own interpretation of the contract?

Realtor Andy Lord 1:34:12

I don't recall.

Attorney Monteleone 1:34:16

Do you commonly engage with making legal interpretations of contract or giving advice about legal interpretations.

Realtor Andy Lord 1:34:25

No,

Attorney Monteleone 1:34:27

why not?

Realtor Andy Lord 1:34:28

Because I'm not a lawyer,

Attorney Monteleone 1:34:31

all right, are there? Is that a surprise to parties to a contract? In other words, or I asked that differently, are parties to a contract on notice about the limited ability that you can play as to providing legal advice.

Realtor Andy Lord 1:34:47

Yeah, in our in our listing agreements and our buyer agreements both, if they both outline that, you know, we are not to be giving advice on tax or accounting matters or legal matters. They seek the appropriate professionals.

Attorney Monteleone 1:35:03

So did you agree with Mr. Rinaldi's interpretation of this claim that that the buyers were weren't honoring the contract because of there's a paving escrow?

Realtor Andy Lord 1:35:17

No

Attorney Monteleone 1:35:22

why did you seek to make concessions?

Realtor Andy Lord 1:35:26

We just we wanted to get the house to closing. You know, Drew needed to move in there. We needed to get this done.

Attorney Monteleone 1:35:35

Now, at that point in time, what was your perception of what was happening in the real estate market outside of this outside of this agreement, what was going on in the market.

Realtor Andy Lord 1:35:51

It was going absolutely crazy. We were seeing record high sales prices, very low days on market, still had very low inventory and a lot of buyers.

Attorney Monteleone 1:36:02

Okay, and so were you aware about how, how prices and the Were you aware of how prices had changed between August of 2020, when you went under contract here, and march of 2021, in which you're contemplating closing or not closing. Here,

Realtor Andy Lord 1:36:28

yes, I was

Attorney Monteleone 1:36:29

and what was happening with prices.

Realtor Andy Lord 1:36:31

They were going up.

Attorney Monteleone 1:36:36

No at any time prior to the issuance of the the exhibit 11. HUD statement, Mr. Rinaldi ever raised an objection about the paving escrow or the painting escrow?

Realtor Andy Lord 1:36:57

No,

Attorney Monteleone 1:36:58

did Mr Rinaldi have any objection at all to the to the landscaping escrow,

Realtor Andy Lord 1:37:02

no. In fact, he was thankful that it was going to be done.

Attorney Monteleone 1:37:06

Why is that?

Realtor Andy Lord 1:37:07

Because he was out of money, and it was couldn't do it that time of year. Would have delayed closing until the spring, but

Attorney Monteleone 1:37:22

all those object. Objections, but you in fact, heard those objections after the alta statement was was issued,

Realtor Andy Lord 1:37:30

right?

Attorney Monteleone 1:37:31

What happened there?

Realtor Andy Lord 1:37:33

Well, at that point, that's when he was trying to figure out how he can make more money, and apparently had a certain dollar amount that he was looking to get to.

Attorney Monteleone 1:37:49

And did Mr. Rinaldi identify for you the dollar amount that he was looking to get to?

Realtor Andy Lord 1:37:57

He did.

Attorney Monteleone 1:37:58

And what was that

Realtor Andy Lord 1:37:59

I don't have it right in front of me.

Attorney Monteleone 1:38:07

If I would refer you to exhibit 17 lines starting at line 2526 what is, what is exhibit 17 that we're looking at here.

Realtor Andy Lord 1:38:35

So that text message between Mr. Rinaldi and myself,

Attorney Monteleone 1:38:39

all right? And when are these text messages being sent

Realtor Andy Lord 1:38:44

while with Drew at the closing table?

Attorney Monteleone 1:38:47

And what was the number that Mr. Rinaldi expressed that he was looking to get to

Realtor Andy Lord 1:38:53

\$17,800

Attorney Monteleone 1:38:57

and and what was your understanding of what had already been offered to him.

Realtor Andy Lord 1:39:04

So at this point, Matt Dibiase had already waived his full commission, and he had waived the agency's portion of my commission in order to get this

Attorney Monteleone 1:39:16

Okay So in other words, his full commission that was, I was 11,500 i think we saw earlier,

Realtor Andy Lord 1:39:25

yes.

Attorney Monteleone 1:39:26

And then what was the agency portion of your commission that that the agency controlled

Realtor Andy Lord 1:39:31

is probably around \$2,500 right?

Attorney Monteleone 1:39:36

So, in other words, there was, there was \$13,000 in and of itself right there,

Realtor Andy Lord 1:39:41

correct?

Attorney Monteleone 1:39:42

And I think we saw before Mr. Rinaldi was was set to receive 3000 you know, just under 3000 Yeah. So when Mr. Rinaldi on, on the last day of the closing, identified that there was a number that he was that he was looking for, how did. Respond.

Realtor Andy Lord 1:39:47

Yeah.

Attorney Monteleone 1:39:49

So when Mr. Rinaldi on, on the last day of the closing, identified that there was a number that he was that he was looking for, how did. Respond.

Realtor Andy Lord 1:40:01

How did I respond? I offered to give him the \$4,000 difference,

Attorney Monteleone 1:40:05

okay, and, and what did Mr. Rinaldi say to that does?

Realtor Andy Lord 1:40:18

Out of respect for you. I will talk to you on Monday, but you guys treat me like I was stupid and tried to squeeze me forever. Squeeze me for every penny unless that HUD has the escrow adjusted, I'm not closing today and taking back power, and then we'll decide what we want to do.

Attorney Monteleone 1:40:37

And was there additional time to wait until the Monday on on the contract?

Realtor Andy Lord 1:40:44

No,

Attorney Monteleone 1:40:44

why is that?

Realtor Andy Lord 1:40:45

Because we're at our last extension date.

Attorney Monteleone 1:40:50

So I think you, you mentioned that, that you were sitting at the you're seeing at the closing table.

Realtor Andy Lord 1:40:58

Yes,

Attorney Monteleone 1:40:58

when this conversation was happening, and who, who's with you.

Realtor Andy Lord 1:41:04

Drew Janice, the in the title attorney that was doing the closing.

Attorney Monteleone 1:41:09

Okay? And while you're waiting, how did you, how did you contact or connect with Mr. Mr. Rinaldi

Realtor Andy Lord 1:41:18

We were texting. He wouldn't answer the phone.

Attorney Monteleone 1:41:26

did? Did Mr. Rinaldi ultimately come to closing?

Realtor Andy Lord 1:41:35

No,

Attorney Monteleone 1:41:39

what was your understanding of why not?

Realtor Andy Lord 1:41:43

Because he wasn't making the money that he wanted to make,

Attorney Monteleone 1:41:50

and he made a promise to you to suggest that he was aware that he could, he could sell it to others for more

Realtor Andy Lord 1:41:59

Yes,

Attorney Monteleone 1:42:00

such as, what?

Realtor Andy Lord 1:42:08

Well, line 32 says, I could have it sold next week.

Attorney Monteleone 1:42:11

So what do you? What do you? What did you understand that that mentioned to you when he's when he's texting, I can have it sold next week.

Realtor Andy Lord 1:42:21

That was, you know, as complete. It would be a highly desirable property, and it likely would sell very quickly.

Attorney Monteleone 1:42:31

What was your impression about extent to which Mr. Rinaldi was aware of the present market value of for for that house.

Realtor Andy Lord 1:42:41

I think he was very aware of the market value before.

Defendant Rinaldi 1:42:45

Objection, speculation,

Justice Daniel Billings 1:42:46

objection overruled

Attorney Monteleone 1:42:53

what did what did that mean for Drew?

Realtor Andy Lord 1:42:55

Meant that drew didn't get the house,

Attorney Monteleone 1:42:58

and at that point in March, how long had drew spent waiting

Realtor Andy Lord 1:43:03

since August,

Attorney Monteleone 1:43:11

nothing further.

Justice Daniel Billings 1:43:18

Mr. Rinaldi,

Attorney Monteleone 1:43:35

Your Honor, before we transition, can I just clarify that I think that I failed to move admission of exhibit four, which is the executed version of the correct spec sheet.

Justice Daniel Billings 1:43:50

Okay, any objection on admission of exhibit four? It's admitted on objection.

Attorney Monteleone 1:43:56

All right, okay. I think that's the only one right now.

Defendant Rinaldi 1:44:15

Okay, looking good. I So you said that your experience prior with builders, who did you list the house for which builder or prior to cape rd

Realtor Andy Lord 1:44:52

Who did I list the house for?

Defendant Rinaldi 1:44:52

Well, like you just said, your prior experience. What would you have a prior experience?

Realtor Andy Lord 1:44:56

I sold 200 homes

Defendant Rinaldi 1:44:58

prior to cape rd

Realtor Andy Lord 1:45:00

probably over 100 at that point. So I work with many builders.

Defendant Rinaldi 1:45:04

Could you name a few

Realtor Andy Lord 1:45:07

Robi builders I can't think of the other ones

Defendant Rinaldi 1:45:12

That's fine. So you're well aware that when building happens, it takes an army. You got all these crews coming in. It's a dance, and there's a lot of people obviously building. Correct.

Realtor Andy Lord 1:45:23

I takes a lot of people to build homes

Defendant Rinaldi 1:45:26

Yes, and that's even on a basic home, not a really custom home, like cape rd I mean, it just takes a lot. I mean, you agree to that.

Realtor Andy Lord 1:45:26

Yes

Defendant Rinaldi 1:45:36

Okay? So when, yes. So when you were you aware that I was in a position where I was building it basically alone when we got into the contract,

Realtor Andy Lord 1:45:49

when we signed the contract?

Defendant Rinaldi 1:45:50

Yes,

Realtor Andy Lord 1:45:50

no.

Defendant Rinaldi 1:45:52

So when you met with me, I never said that. I'm pretty much on my own here.

Realtor Andy Lord 1:45:57

I don't recall you saying that

Defendant Rinaldi 1:45:58

never so you assume that I did it. Find it odd that when nobody was there was no contractors around, and that I was doing basically everything by myself.

Realtor Andy Lord 1:46:09

Well, when we first saw it, you weren't there.

Defendant Rinaldi 1:46:12

When you first met me, I first met you. Yeah, and Matt never told you that he's doing this on his own because of the way the one's structured.

Realtor Andy Lord 1:46:22

No.

Defendant Rinaldi 1:46:22

So when did you first figure that out? First figure that out?

Realtor Andy Lord 1:46:26

Probably several weeks in when there's no real progress being made.

Defendant Rinaldi 1:46:29

I mean, I said and there's no progress being made in August, September, November, whatnot, which is just empty, correct? I'd like to enter exhibit. I haven't missed those 56 but it's from their discovery. It's just a picture of the house that I believe drew took. I think you recognize that, right? Okay, there's this. This picture was taken the day you guys met me in August, correct?

Realtor Andy Lord 1:46:52

I believe so, yeah.

Defendant Rinaldi 1:46:54

So in Drew's affidavit, it states that he observed the front porch being framed. And you had said earlier that you observed the front porch being framed. Do you see a front porch? porch being framed?

Realtor Andy Lord 1:47:07

No, okay,

Defendant Rinaldi 1:47:08

so he mentioned the appraisal, and appraisal you identified the front porch, but that's in September. It's a month later. drew, testified as well as you that the front porch. You You believed it to be included in the contract because it was already being framed at the point when you signed the contract, but this shows that it wasn't. So how'd you do?

Attorney Monteleone 1:47:31

Misstating, misstating the prior statement.

Defendant Rinaldi 1:47:34

How? So,

Attorney Monteleone 1:47:36

verified it incorrectly.

Defendant Rinaldi 1:47:40

Okay, I'll rephrase what did you say earlier about what you viewed the front porch when you were under contract.

Realtor Andy Lord 1:47:51

I don't recall exactly what I said earlier.

Defendant Rinaldi 1:47:53

So when we when you met with me that day, just before you signed the contract, because it was pretty close, correct?

Realtor Andy Lord 1:47:57

Pretty close.

Defendant Rinaldi 1:47:58

Yeah , did you observe the front farm porch being framed

Realtor Andy Lord 1:48:02

no, but I observed the way the building was built to accept the farmer porch and the roof over it.

Defendant Rinaldi 1:48:07

How so

Realtor Andy Lord 1:48:09

Because in that picture?

Defendant Rinaldi 1:48:11

How so?

Realtor Andy Lord 1:48:13

So that picture with the original picture from your email would be logical to assume there would be a front porch.

Defendant Rinaldi 1:48:21

Why couldn't it be the same as this home with that small porch? Why couldn't you do that with this? Couldn't you do that smaller porch with this?

Realtor Andy Lord 1:48:28

Well, you're the builder, but the picture that we were provided prior to going under contract showed a Farmers porch.

Defendant Rinaldi 1:48:33

I understand I get that, but now that email I sent to Matt, I don't even know if I sent it, but I sent to Matt, there's nothing an email indicated that I was that I wanted that sent to you, correct?

Realtor Andy Lord 1:48:38

I don't know.

Defendant Rinaldi 1:48:47

So is it fair to assume that I may have sent it to Matt with no intentions of having it sent to you?

Realtor Andy Lord 1:48:54

That'd be fair.

Defendant Rinaldi 1:48:54

Okay, so Nonetheless, when you you said you create. Did you create the original contract when you made the offer?

Realtor Andy Lord 1:49:04

Yes

Defendant Rinaldi 1:49:05

So why didn't you use the rendering that you got on the August 5th email?

Realtor Andy Lord 1:49:08

Because we didn't have a full spec sheet. Was just a picture of the front of the building

Defendant Rinaldi 1:49:12

You could have taken that rendering and just put it right on that spec sheet, because you created it

Realtor Andy Lord 1:49:16

but it wasn't on the MLS listing,

Defendant Rinaldi 1:49:19

I understand. But I mean, you could edit it, you know, you could do listings Correct. You could have done that correct.

Realtor Andy Lord 1:49:23

I can't edit somebody else's listing. What they're providing for me is what we're intending to purchase.

Defendant Rinaldi 1:49:30

So Matt, put that together. Isn't what you're a saying

Realtor Andy Lord 1:49:33

the MLS listing,

Defendant Rinaldi 1:49:34

yeah. So if it had the older version,

Realtor Andy Lord 1:49:37

yes.

Defendant Rinaldi 1:49:37

So you didn't think it was wise to add an addendum, let's say, with the new picture and the new square footage

Realtor Andy Lord 1:49:43

we had at that point, requested a new a new scope of work. We had been informed that the prior buyer had made the changes, and we were waiting.

Defendant Rinaldi 1:49:51

So that was a month later, correct,

Realtor Andy Lord 1:49:53

that we finally got it?

Defendant Rinaldi 1:49:54

No, that you requested it?

Realtor Andy Lord 1:49:56

No, we requested it early on,

Defendant Rinaldi 1:49:58

so you so. Why? Why not? Why not have it included? Why? Why sign a contract for a 1900 square foot home? If that's not what you were signing up for, why not include it with the sale? I mean, you clearly have a lot of experience. Wouldn't it make sense to do that?

Realtor Andy Lord 1:50:12

Because I had nothing to include at that point. All I had was a picture.

Defendant Rinaldi 1:50:15

You had a picture. You could have said 2000 someone square feet, correct?

Realtor Andy Lord 1:50:18

But if we're gonna, if we're going to write addendum saying that we're specifying certain things. We want to know what's being specified.

Defendant Rinaldi 1:50:24

So you're trying to say that you intentionally signed a contract for less square footage and a smaller house and didn't make any mention of a large house and large square footage that was intentional.

Realtor Andy Lord 1:50:36

The increase in price from 375, to 385, was to account for the changes that were being made,

Defendant Rinaldi 1:50:42

but you intentionally didn't include it in the contract.

Realtor Andy Lord 1:50:44

We didn't have it to include it in the contract.

Defendant Rinaldi 1:50:46

Well, you just said you had that, obviously, with the email rendering, and you knew what the square footage, right?

Realtor Andy Lord 1:50:50

But that's not a scope of work. That's nothing that we can give to an appraiser to permanent value.

Defendant Rinaldi 1:50:54

You're trying to let the court, let the court say, I mean, you're trying to state that those upgrades were included in the original purchase and sale if they were included. Why? Why not? You could have easily done that. You could easily include them. You could easily said that fourth bedroom needs to be done. I mean, wouldn't it make sense to do that?

Realtor Andy Lord 1:51:15

Yes,

Defendant Rinaldi 1:51:16

correct, yeah. So in the purchase and sale exhibit, sorry. I got an exhibit for the purchases here while we're waiting the appraisal that came in at the end. Do you know the value that it came in at

Realtor Andy Lord 1:51:36

I'd have to look at the final appraisal.

Defendant Rinaldi 1:51:39

I can direct you to it. It's um. Do you have that in front of you? The the paperwork?

Realtor Andy Lord 1:51:50

Yes,

Defendant Rinaldi 1:51:50

okay , I believe it's 420,000 it's um,

Realtor Andy Lord 1:51:54

yes, it does say appraised, original appraisal, 420,000

Defendant Rinaldi 1:51:57

you think it's odd that it appraised for 420,000 and yet I sold it for 487 Do you find that a little odd?

Realtor Andy Lord 1:52:06

You didn't sell for 480

Defendant Rinaldi 1:52:07

so no, with the new buyers? Oh,

Realtor Andy Lord 1:52:10

do I think it's odd?

Defendant Rinaldi 1:52:11

Yeah ,

Realtor Andy Lord 1:52:11

given the market at that time? No,

Defendant Rinaldi 1:52:13

\$65,000 just like instantly

Realtor Andy Lord 1:52:15

we were seeing houses go hundreds of thousands dollars over asking,

Defendant Rinaldi 1:52:18

Okay, so were you aware that work was done after March 5?

Realtor Andy Lord 1:52:22

I have never been out there since March 5.

Defendant Rinaldi 1:52:25

Okay, so you weren't you doing well with work? There was, you don't know if there's other reasons why that increased price, other than you know, would it be fair to assume that I would continue to work on it?

Realtor Andy Lord 1:52:37

Yes,

Defendant Rinaldi 1:52:37

and do like the top soil and stuff like that, if I could.

Realtor Andy Lord 1:52:39

Yeah

Defendant Rinaldi 1:52:40

Okay, now you said that. Oh, hold on. Let me direct you to the purchase and sale page. I don't know if these are numbered, but number 18 is prior statements, any representation statements and agreements are not valid unless contained herein. This agreement completely expresses the obligation of the parties, and they only amended in writing, signed by both parties. So if you look at the spec sheet that was attached, it's not signed, it's not initials, and it's not numbered. I mean, that's you created it correct?

Realtor Andy Lord 1:53:12

Mm hmmm

Defendant Rinaldi 1:53:13

Or do you? I'm not sure how that works, but at the end last page, there is a signature by me, and initials by Drew and Janice.

Realtor Andy Lord 1:53:20

I'm sorry. Can you say that? One more time?

Defendant Rinaldi 1:53:23

I apologize the purchase and sale the original spec sheet, yes, there's no initials and numbering on any of the pages other than the last page has initials in the signature.

Realtor Andy Lord 1:53:36

Well, yeah, so that would be acknowledging that they read it

Defendant Rinaldi 1:53:39

yeah. Well, how is it? How, like these other pages, they're not signed. So why would you know? How would they, why would they be included in the contract, if they're not signed or initialed or anything? Wait, all the other pages are initialed. Shouldn't they be initial too?

Realtor Andy Lord 1:53:55

So we, when we do a purchase sale agreement, take the information that your agent is posted on the MLS, if there's a signature block, like on a purchase and sale agreement, where these forms are prepared. We don't prepare these forms that we fill those in any other document. We will put initials or signature pages on the last page.

Defendant Rinaldi 1:54:12

But you do a number them or indicate there part of it

Realtor Andy Lord 1:54:15

We don't.

Defendant Rinaldi 1:54:16

So paragraph 18 states that unless it's signed and agreed to that both parties. It's not contained herein, so shouldn't those be at least initial or acknowledged?

Realtor Andy Lord 1:54:28

Not really understand this. It is signed on the last page,

Defendant Rinaldi 1:54:30

the last page, but that's just that page. So that page counts, but the other pages, I mean, they're not signed, they're not initialed.

Realtor Andy Lord 1:54:37

So if we went back we went back to MLS listing. This is an individual document that's attached to the MLS listing So we

Defendant Rinaldi 1:54:43

I get what you're saying, but it's a contract. So in the contract, I mean, Matt put that together not myself, so I never sign that. I never initialed it. I signed the last page. I agreed to the last page. I didn't necessarily agree to the other pages. And in the contract, it states that unless it's signed, it's not included. Well shouldn't those have initials.

Realtor Andy Lord 1:55:03

That's not how we do it.

Defendant Rinaldi 1:55:04

Not never. It's never. They never have initials.

Realtor Andy Lord 1:55:06

We never initial every page in addendums

Defendant Rinaldi 1:55:09

Okay, now the September, let me direct you to text messages. Did in September when you, when you prepared the updated spec sheet, a month later, whatnot, I sent it to the appraiser. Apparently, Matt sent it to you. You prepared it, and they sent it to me correct

Realtor Andy Lord 1:55:29

Prepared the spec sheet.

Defendant Rinaldi 1:55:30

No, the second contract, updated spec sheet.

Realtor Andy Lord 1:55:33

I prepared the spec sheet.

Defendant Rinaldi 1:55:34

Listen, I don't know. All I have is, let me, I'm trying. I apologize. I'd like to submit 50 through 53 these are screenshots. I believe you have these dot loop emails between Matt and I. Email between Matt and I with addendum One

Attorney Monteleone 1:55:56

Objection your honor I have not received a copy of Mr Rinaldi's exhibits prior.

Defendant Rinaldi 1:55:59

I'm sorry. I Believe you have everything.

Attorney Monteleone 1:56:03

But yes, I have documents, hundreds of pages of documents in this file.

Realtor Andy Lord 1:56:12

It's the same as the one I sent you last I mean, it hasn't changed. So it's the same one as before, the

Attorney Monteleone 1:56:20

sense of the isn't the exhibit list that this is the exhibit list that you filed before but it's fine, we can work with this. So where, where are the copies of these?

Defendant Rinaldi 1:56:31

Yeah, the last one, then the last one I sent you. I thought that that was,

Attorney Monteleone 1:56:35

where are the copies of these exhibits

Defendant Rinaldi 1:56:36

I've sent you all them through email

Attorney Monteleone 1:56:39

When

Defendant Rinaldi 1:56:39

What do you mean you have every single one of them

Attorney Monteleone 1:56:41

marked like this.

Defendant Rinaldi 1:56:42

You have every single one of these

Attorney Monteleone 1:56:45

not marked like this. So I object these.

Defendant Rinaldi 1:56:51

Yes, I will remark these documents correctly as we go. So I apologize. So I'll just move on from that for it now. So did I sign the contract that drew signed in September? Did I sign that

Realtor Andy Lord 1:57:08

The contract you signed in September?

Defendant Rinaldi 1:57:12

The update spec sheet one, yes,

Realtor Andy Lord 1:57:14

You did not

Defendant Rinaldi 1:57:14

I did not sign. Okay, so he talks a lot about it, right? I never signed it, correct? So I shouldn't be bound by it. Do you What's your opinion on why I didn't sign it?

Attorney Monteleone 1:57:25

Objection, calls for leave well, calls for speculation.

Justice Daniel Billings 1:57:30

Object overruled

Defendant Rinaldi 1:57:32

what was your belief that why I didn't sign it in September?

Realtor Andy Lord 1:57:37

What was my belief that you didn't sign the update spec sheet in September because we couldn't nail you down for anything. Your phone was dead three quarters of the time. Let's be real.

Defendant Rinaldi 1:57:48

You were there daily. So you couldn't pin me down,

Realtor Andy Lord 1:57:53

I can't have you sign things. I don't represent you. I never represented you.

Defendant Rinaldi 1:57:57

There was pretty muddy waters. I mean, you were there constantly directing me to do things. I mean, you say that you say that you can't represent me, but yet you certainly directed me to do, of all things. So I mean, you were, you're definitely a very dominant person, and you definitely know how to play things. And you know, I, you know. So your testimony is that you don't know why I didn't sign it. You couldn't pin me down. My phone was off, even though you were there daily or a couple times a week, let's say

Realtor Andy Lord 1:58:22

even if I was there a couple times a week, I can't force you to sign anything. I can't counsel you or advise you to sign.

Defendant Rinaldi 1:58:26

You never asked me to

Realtor Andy Lord 1:58:29

it's it's not my side of the transaction.

Defendant Rinaldi 1:58:31

I have text messages that I'll point to there. You ask me sign extensions. You ask me to sign things.

Realtor Andy Lord 1:58:35

If I was directed by your agent to talk to you about it, then I would

Defendant Rinaldi 1:58:39

okay. So in September,

Justice Daniel Billings 1:58:41

well, hold off

Defendant Rinaldi 1:58:42

Yep, sorry,

Justice Daniel Billings 1:58:42

you proposed an addendum the addendums that have been admitted to evidence that you've testified about. How did those?

Realtor Andy Lord 1:58:49

The extensions,

Justice Daniel Billings 1:58:51

yes, the extensions, the the addendum that allows Mr. Pierce to move in. How did those come about

Realtor Andy Lord 1:59:01

so I prepare those. I would send them to his agent. His agent would present them to him, if he signed them, then they'd be part of the transaction.

Justice Daniel Billings 1:59:09

So did that ever happen with what has been referenced as the corrected spec sheet?

Realtor Andy Lord 1:59:16

Did whatever happen?

Justice Daniel Billings 1:59:17

Was there a proposed addendum to reflect that the contract was intended to include as the scope of work, what's outlined in the corrected spec sheet. Was there ever an addendum proposed to Mr. Rinaldi to reflect the corrected spec sheet?

Realtor Andy Lord 1:59:34

The only thing that I can think of that we'd have, I don't know if it's in this, is the new construction addendum, which would allow the buyer and the seller each a certain amount of days to review the plans and review zoning and that sort of thing.

Justice Daniel Billings 1:59:49

But the corrected spec sheet, as you've referenced it, that came out of that that was presented from your testimony more than five days after the original

Realtor Andy Lord 1:59:58

it was

Justice Daniel Billings 1:59:59

My question is, was there ever an addendum to the initial purchase and sale agreement to reflect that the sale price was intended to reflect the work and the what you referred to as the correct spec?

Realtor Andy Lord 2:00:13

No,

Justice Daniel Billings 2:00:14

Mr. Rinaldi, sorry to interrupted you.

Defendant Rinaldi 2:00:18

Oh, no, you're fine. Thank you. So in the text here you state, this is from their exhibits, where you state that was supposed to be signed back in September, you signed it in September, when you're trying to get me to sign that correct.

Realtor Andy Lord 2:00:32

The spec sheet

Defendant Rinaldi 2:00:34

Do you recall that?

Realtor Andy Lord 2:00:38

I do recall that

Defendant Rinaldi 2:00:18

Yes Yeah, do you remember it was like February, or something like that? Okay, I did. I never did. End up signing that updated spec sheet, correct?

Realtor Andy Lord 2:00:47

Not that I'm aware of

Defendant Rinaldi 2:00:47

yeah. Okay, so, and then the possession prior to closing, addendum, I got a text I believe it's exhibit. What exhibit is this? Plaintiff's Exhibit? I'm not sure it's the text messages, but when you say, sent you the addendum for the Oh, no, I'm sorry, that's Matt. Oh, wait, we're here we go you say on page, not line number six. Exhibit F is under it, but I believe their exhibits are numbered line six. You said, because the scope of the work didn't specify the drywall specifically, it just a garage to be primed and then the back road. Now you wanted those added to that new contract correct the easement to the back road?

Realtor Andy Lord 2:01:38

Yes .

Defendant Rinaldi 2:01:38

Now that's that would you would think there would be consideration for that additional option, correct?

Realtor Andy Lord 2:01:45

I don't remember if that's something the lender was requesting, but the the right of way from that back road was in the deed, the deeds for the property that the house was built on.

Defendant Rinaldi 2:01:55

So the original two that That was for this one, not, I don't believe this one you guys were

Realtor Andy Lord 2:02:00

so the right of way to get to the back right.

Defendant Rinaldi 2:02:02

Yeah,

Realtor Andy Lord 2:02:03

Rotary,

Defendant Rinaldi 2:02:04

yeah.

Realtor Andy Lord 2:02:04

So you have the lot before, yep, never in past the house,

Defendant Rinaldi 2:02:08

yeah,

Realtor Andy Lord 2:02:09

and then to access this lot, yes, same road,

Defendant Rinaldi 2:02:12

yeah. So Matt says, just before you you're on this text sending you an addendum for the easement to the back road. So he's trying to get me to sign and to agree to an easement to have that right away.

Realtor Andy Lord 2:02:24

I think we just needed to document it for the lender, but

Defendant Rinaldi 2:02:28

yeah, to me to agree to it, yes for the deed to say it correct, but yeah, but no, no consideration was offered for that correct.

Realtor Andy Lord 2:02:37

I am not aware of any

Defendant Rinaldi 2:02:38

Okay, and then you said, because the scope of the work I go. Why is the garage part of it? That's already done. You said because the scope of the work didn't specify the garage. Now, you did direct me to to drywall the interior the garage, correct?

Realtor Andy Lord 2:02:50

I directed you to drywall the garage.

Defendant Rinaldi 2:02:53

Yeah,

Realtor Andy Lord 2:02:55

yeah. There has to be drywall, two layers drywall, because a firewall between the house and the garage

Defendant Rinaldi 2:02:59

you didn't direct me to drywall the whole garage.

Realtor Andy Lord 2:03:02

No, then I said that. I believe it says,

Defendant Rinaldi 2:03:03

so there's no text between me and you.

Realtor Andy Lord 2:03:06

I have no idea.

Defendant Rinaldi 2:03:08

I say, Please change it back. Road only. I would have been better off doing renovations the past. Hold on. Where was it? It says, I apologize. Anyways, you go because that was signed

by Drew back in September, but not going to rewrite everything for no reason, and then I'm sorry. No, seem to know where that is, nonetheless,

Justice Daniel Billings 2:03:38

just so the records clear about the exhibit that's being referenced

Defendant Rinaldi 2:03:41

Yeah, I'm

Justice Daniel Billings 2:03:42

questioning. It's, it's marked as plaintiffs exhibit 16. I believe it may have been referenced briefly previously, but it's not been offered

Defendant Rinaldi 2:03:48

thank you. I appreciate it. So do they haven't offered it as

Justice Daniel Billings 2:03:56

not yet.

Defendant Rinaldi 2:03:58

Am I allowed to offer their

Justice Daniel Billings 2:04:04

I mean, is there any objection to plaintiff exhibit 16 being admitted?

Attorney Monteleone 2:04:09

No, your honor

Justice Daniel Billings 2:04:10

all right, so Plaintiff's Exhibit 16 is admitted

Defendant Rinaldi 2:04:12

Okay, thank you. So let's move to prior March 4. You said that there was no I never demanded anything for escrow right from along those lines, correct,

Realtor Andy Lord 2:04:25

Yeah correct

Defendant Rinaldi 2:04:27

what you testified too Okay. Now you and Matt are obviously pretty close. I would assume, is that fair to say?

Realtor Andy Lord 2:04:33

I mean, I worked at this company.

Defendant Rinaldi 2:04:34

I get that so, um, but you guys were communicating at this time.

Realtor Andy Lord 2:04:39

Yeah,

Defendant Rinaldi 2:04:39

On the same page now on March, I believe third or fourth, you met with Lincoln capital, and Matt and my bank, Lincoln capital, correct?

Realtor Andy Lord 2:04:50

I have never met with Lincoln.

Defendant Rinaldi 2:04:52

No a phone call, you had a phone call I believe the day prior,

Realtor Andy Lord 2:04:56

I was actually not part of that phone call.

Defendant Rinaldi 2:04:58

Oh, you didn't end up.

Realtor Andy Lord 2:04:59

I wasn't invited to it

Defendant Rinaldi 2:05:01

Okay so there was, this is from plaintiff's discovery. This is from their discovery file. I don't have my I literally ran in here because I was late because I didn't know the time. So I apologize. I don't have these marked properly on my exhibit list, but I do have everything numbered, but they are on the exhibit list that I provided him. I just don't have them numbered. I do have them number I just don't have them numbered on the exhibit list, if that makes sense, which I can

Justice Daniel Billings 2:05:45

so are we talking about an email like a text message exchange?

Defendant Rinaldi 2:05:51

These were they provided a text exchange for their discovery file between Matt and Andy. And then there's more, from Craig Matheson . I just like to admit those and I had a numbered 24 through 29

Justice Daniel Billings 2:06:02

Do you know if these are in your exhibits? Mr. Monteleone,

Attorney Monteleone 2:06:05

they're not, they're not. Can I? Can I review them?

Defendant Rinaldi 2:06:09

Yeah, see if I can pull that up.

Attorney Monteleone 2:06:30

Okay, I object to both these exhibits, given that there they are hearsay involving third parties.

Justice Daniel Billings 2:06:40

So they're, they're text messages between who

Defendant Rinaldi 2:06:43

The realtors .

Justice Daniel Billings 2:06:45

Do they involve this?

Attorney Monteleone 2:06:47

They're not all text messages between the realtors.

Defendant Rinaldi 2:06:51

Craig one

Attorney Monteleone 2:06:51

everything with

Defendant Rinaldi 2:06:52

this is between Matt and Andy,

Attorney Monteleone 2:06:54

Matt and Andy and everything you've written on, everything you've written on that piece of paper

Defendant Rinaldi 2:06:57

I can scribble that out I apologize, that's my notes

Attorney Monteleone 2:06:59

That's hearsay and the document that is between Andy and the lender is all hearsay

Defendant Rinaldi 2:07:08

I mean, that's between Andy and the bank discussing this actual situation. These are documents you provide me in your discovery file. And how is hearsay? What was your objection? These are business records. I mean, they're clearly business records. He's testified that his emails and texts and all

Justice Daniel Billings 2:07:27

you need to ask him about the specific document before he can make

Defendant Rinaldi 2:07:30

that yeah, I apologize, and you're discussing document 28 sorry that's not it sorry. Document 29 from Andy Lord to Craig Mathison. I mean, he testified that he talked to the lender about this stuff, so it's nothing new, and this is all stuff you he had already testified to.

Attorney Monteleone 2:07:48

Yes, I've objected to that document

Defendant Rinaldi 2:07:49

On what grounds,

Attorney Monteleone 2:07:50

On the grounds of hearsay

Defendant Rinaldi 2:07:50

this is a business record.

Justice Daniel Billings 2:07:53

You can't just say that. You need to establish it through the witness. It may very well be

Defendant Rinaldi 2:07:55

yes.

Justice Daniel Billings 2:07:55

You need to show it to the witness and establish a basis. Anything can be admitted as a business record. So I'm going to take a break at this point. What you need to do is mark, just to make sure. And then when we introduce them to the witness, you need to know how they're marked, and then have them see them and ask about them. Thank you. So let's think about it.

PART 2 of 4

Justice Daniel Billings 0:01

Please take the witness stand, So if you're going to show it if you're going to show him any exhibits asking questions about, yeah, please identify them and then Mr Monteleone

Defendant Rinaldi 0:27

yeah, James actually was kind enough to provide these, so we're, I think, good on that. So let me just get everything together. I think these are only two that aren't in his file, but I'd like to exhibit exhibit R Page one, as well? Is exhibit Q? Page one through five. believe this is between you and Craig Matheson Does that look familiar? Can I

Justice Daniel Billings 1:00

you may approach

Defendant Rinaldi 1:03

These are technically Matt and You on the day of closing came from the discovery file So you mentioned with the lender, I can see here exhibit R umm you say to him, and technically, the base coat is there, just not The finished coat. What did you mean by that?

Andy Lord 1:42

That the gravels down.

Defendant Rinaldi 1:44

It's a gravel. Okay, so then with Matts you say exhibit R, page four. I believe this is Matt saying, technically, it's not in the contract, just base coat. Is that indicating that the paving,

Andy Lord 2:10

Can I see

Defendant Rinaldi 2:10

yep, you should.

Andy Lord 2:27

Okay, so, yeah, I think that was Matt.

Defendant Rinaldi 2:30

What do you what was your interpretation? What he was saying to you, when he's saying technically, it's not in the contract. Is he implying that the paving like mine, I wasn't obligated to pay that.

Andy Lord 2:40

I don't know

Defendant Rinaldi 2:42

Okay, so you didn't really know why he said that.

Andy Lord 2:45

No

Defendant Rinaldi 2:45

Okay, you also said that I offered in several texts that I offered to give you till Monday. You said, That's not possible. Now, we just signed a one day extension. We could have signed a three day extension, certainly, right?

Andy Lord 3:00

Probably could have,

Defendant Rinaldi 3:01

yeah, well, you because you testified that the contract was over and there's nothing we could do. But why didn't you sign a few date? Why didn't you want to discuss it on Monday?

Andy Lord 3:11

Well, it wasn't really up to me at that point, so the lenders prepared the docs. The title company was already there.

Defendant Rinaldi 3:17

Yeah,

Andy Lord 3:17

you know, it's that would have been more than just, you know, just a, hey, we're getting to closing date. We need to extend this. At that point I can't schedule all that. I don't know if they're available.

Defendant Rinaldi 3:30

So your testimony is that you can't, you can't extend it. Is that your testimony

Andy Lord 3:35

you could extend the contract?

Defendant Rinaldi 3:36

Yeah, so, so why? Why did you, when I offered to give you to Monday, and discuss it, let things cool off and discuss it Monday why did, why did you not want to do that?

Andy Lord 3:46

I don't think it was ultimately up to me.

Defendant Rinaldi 3:49

So was it up to Matt I mean, you guys were negotiating

Andy Lord 3:52

Its not up to him It's between you and the buyer

Defendant Rinaldi 3:54

Yeah but I'm, I'm, I'm talking to Well, I'm really, I'm talking to you. I should have been talking to Matt, but I'm discussing it with you. I'm saying I'll give it to Monday. Your response is the contracts. I believe if I get the messages that something along the lines the contract's off Monday, or something like that. So I just, it just seems odd that if you guys were willing to work with me, why wouldn't you just wait to Monday? Hear me out, try to work it out. And then with exhibit R Craig says to you,

Attorney Monteleone 4:22

Objection, that's hearsay

Defendant Rinaldi 4:25

um, sorry. This is the exhibit R page one. It's a business record between Craig Matheson, the mortgage company, and Andy, where he's trying to get the escrow removed. He's already testified to talking with him. I mean, it's really no different. This is just the paper version.

Justice Daniel Billings 4:40

Well before you can make reference or offer the exhibit, you need to establish that that's the exhibit, right? You need to establish from testimony from the witness, what it is and whether or not it meets the admissibility as a business record

Defendant Rinaldi 4:54

I'm sorry. I thought when i handed him those two I thought I apologize. I thought I had because I gave them these five and this one and have them look over them.

Justice Daniel Billings 5:02

Well, you can have him look over them but you have to ask the I mean, again, got you, is this things you have to do

Defendant Rinaldi 5:04

I got you

Justice Daniel Billings 5:07

for things to be admitted.

Defendant Rinaldi 5:08

Does this look accurate, Matt's text message between you and Craig Mathison,

Andy Lord 5:12

yes, that's the text message

Defendant Rinaldi 5:13

Ok So the witness identifies it as the text exchange between him and the bank. So, I mean, I see it as a business record.

Attorney Monteleone 5:24

He hasn't moved to admit it. However, I object to any characterizations of what it says that are inadmissible hearsay,

Defendant Rinaldi 5:32

I'm trying to admit it right now, and it's a business record. It's a common business record between the bank they've testified to the exchange between him and Craig? This is proving that their prior statements are inconsistent as well. And again, business record, this is very common to you know, he keeps his text as records in the industry as his very common business record, and it was provided by them to me.

Justice Daniel Billings 5:59

So you did, I just the you didn't offer any of the text messages that were referenced in this witnesses. Earlier testimony, correct?

Defendant Rinaldi 6:11

No,

Attorney Monteleone 6:12

no, Your Honor, the the text message that's being referenced right now was, was not referenced or discussed. It was there. There was discussion about the conversations, what Mr Mr Lord spoke to the bank. There was not characterization about what was said to him. Yeah, that's, that's what hearsay

Defendant Rinaldi 6:34

They said the bank said that they couldn't remove it, is what he said. He said the bank said it, and this is proving that that's not true. First of all, and second of all, this is in line with what they already testified to. I mean, he said that the bank, he talked to the bank, the bank said they can't remove it, and because they tried to have it removed, and he asked them, What was the conclusion? He said that it can't be removed or something like that, right?

Justice Daniel Billings 6:56

That may have been hearsay, but there's no objection to it.

Defendant Rinaldi 6:58

I understand so but it is a business record, and it is proven prior statements inconsistent, which are both exceptions to hearsay.

Justice Daniel Billings 7:09

Well, I'm going to, why don't you show why don't you show the record to the witness and ask him what you're going to ask him, and I'm going to defer any ruling Okay, he he did. You may be able to show him, maybe ask him about it, with it, actually, without it being admitted. So show him

Defendant Rinaldi 7:26

okay,

Justice Daniel Billings 7:26

just and then ask your question.

Defendant Rinaldi 7:27

He did. He did acknowledge it. It is authentic. It's their exchange.

Justice Daniel Billings 7:32

Just show it to the witness and then ask whatever question you want to ask about it

Defendant Rinaldi 7:37

he says to you, man,

Justice Daniel Billings 7:39

yes, and both of you may have approached the witnesses. I'll only get involved if you appear to be trying to intimidate them, which I don't think it's going to happen. So you can both approach the witness to show them documents without further permission from the court, because everybody's been fine so far. Just if people start to get in each other's faces. That's not but everybody's been fine so far. So you just save time. You don't have to ask, as long as you're being appropriate, which everybody is.

Defendant Rinaldi 8:09

Thank you. And I want to stress the importance of this, because it's

Justice Daniel Billings 8:12

just show him the document and ask him questions

Defendant Rinaldi 8:14

So there you say, technically, technically, the base coat was there, just not the finished coat. And then he says, can't be removed if we're closing today, which kind of, I would say, maybe, implies that maybe the following day or Monday, is what my question is. You know, in your affidavit, which we will get to, and I will admit you state that you know the base coat wasn't there. But here you're saying, technically, the base coat is there.

Andy Lord 8:44

The gravel was there. So if we're I think that we need to be aware of what we, all of us, were talking about at that point. So I remember, and I can't remember who it was that came out there with an excavator, and it went from a mound of dirt that we couldn't even walk over to a drive, a driveway, a thing, and then Gravel was brought in. I would agree that gravel is a base coat.

Defendant Rinaldi 9:12

Okay, yeah, so. But would you agree? Because you said it couldn't be removed from escrow? Would you agree Monday, it potentially could have been because, I mean, he's he's saying it just can't be done today.

Attorney Monteleone 9:23

Objection calls for speculation

Defendant Rinaldi 9:26

What's that?

Andy Lord 9:26

He says, We right here. He says he can't remove that from the escrow. Hold back

Defendant Rinaldi 9:31

if we're closing today.

Andy Lord 9:32

It says can't change anything if we're closing today.

Defendant Rinaldi 9:35

Yeah. So

Justice Daniel Billings 9:38

the object is overruled. You can answer.

Defendant Rinaldi 9:40

Thank you.

Andy Lord 9:42

So is the question.

Defendant Rinaldi 9:44

The question is, your testimony earlier was that it can't be removed, whatnot, or it couldn't be removed. But I mean, from that message between you and him, it's pretty clear that you know it could have been removed, just not that same day

Andy Lord 9:58

it might have been able to be removed, but.

Defendant Rinaldi 10:00

The Follow Monday. If you guys agreed to meet

Andy Lord 10:02

It wouldn't be so we wouldn't the lender doesn't approve this. This goes back to the appraisal.

Defendant Rinaldi 10:08

I understand things have to be done that way. I'm gonna say, but between us, you know, I mean you guys were asking them. They said, not today. But, I mean, you could have said, well, can you get it done for Monday, but you guys chose not to do that. Correct?

Andy Lord 10:25

Again, it's not really something I can change if

Defendant Rinaldi 10:29

negotiations are happening. I mean, clearly, obviously, that's how things work, you know? I mean,

Andy Lord 10:34

it wouldn't have been Monday. It wouldn't have been Monday,

Defendant Rinaldi 10:37

Tuesday, I don't know, but I'm just saying, You know

Andy Lord 10:39

It was like a month out

Defendant Rinaldi 10:39

you guys chose not to try that, try to honor what they were, what we were trying to pull off, and decided against that, versus because you try to get it removed, because you could be removed today. So it just, I, I'm trying to understand why. Didn't want to do the part. Didn't want to wait till Monday. We just did a day extension. You know, we could easily done a three or four day extension. You know why? You wouldn't just wait till, you know, see if you can have it removed, and then, and then everyone closes, you know,

Andy Lord 10:40

but this isn't saying that we absolutely could have had it. We can request that it's removed, which triggers another whole appraisal,

Defendant Rinaldi 11:15

I understand, I get all that, but I'm just saying, like you, you guys. I mean, it seems like you guys chose not to, not to wait just we're done.

Andy Lord 11:25

Okay.

Defendant Rinaldi 11:26

Is that fair to say here?

Andy Lord 11:31

Yes,

Defendant Rinaldi 11:32

okay, thank you. And then the base coat I'd like to submit, and then again, I don't know if we did this, but exhibit Q 1 through 5 I've already discussed this with them, but these are the messages between him. I wanted to admit this into evidence. I don't know if you have an objection

Justice Daniel Billings 11:55

between him, him and the two realtors.

Defendant Rinaldi 11:58

And again, from from them, they gave this to me, so I don't know if you objected to that or not.

Attorney Monteleone 12:08

So the version that we've been discussing is not what we gave to you, it's what you've submitted, and that's what's exhibit 17.

Defendant Rinaldi 12:14

Can you show me?

Attorney Monteleone 12:18

Oh, no, I'm sorry, this the end or to admit understand what we're talking about.

Justice Daniel Billings 12:25

Any objective

Attorney Monteleone 12:26

to admission,

Justice Daniel Billings 12:27

yeah,

Attorney Monteleone 12:28

object that there are several statements within that correspondence in which the agents have copied and pasted messages with others into this text message thread. So those copy and paste messages aren't themselves hearsay, but so subject to redaction of those copying and pastings, then no objection to any of the remainder of these contents.

Defendant Rinaldi 12:52

Okay, am I? I'm just gonna reiterate business business record

Justice Daniel Billings 12:56

Right but that doesn't , this

Defendant Rinaldi 12:58

I sorry,

Justice Daniel Billings 13:00

yeah. I'm not sure. Text messages, just because they're saved, make them business records. There are other parts of the rule that are, that are, need to be complied with. So I mean, if they're not, if there's no objection, it's one thing. So what are the text? What are the copy and paste stuff?

Defendant Rinaldi 13:18

So they so he copied, so the Craig exchange. He took a screenshot of this, something with him and Craig, and sent it to Matt, so they're the broker. And then there's a picture of a bisonette plumbing bill, which I don't think that's, I believe that. I think you're just talking about this part of the contract with this. It this, and then, and then the response from Craig.

Attorney Monteleone 13:44

And then there's, there's one more,

Defendant Rinaldi 13:46

your talking about the plumbing bill?

Attorney Monteleone 13:47

No, I'm talking about the reference to the to the forwarding that's happening here. That's a forwarding message,

Defendant Rinaldi 13:55

yeah, that's from me.

Attorney Monteleone 13:56

So it's, it's outside of that record.

Defendant Rinaldi 14:00

So that's something i i said to

Justice Daniel Billings 14:04

right? But you don't get to offer your own out of court statements. You he can't offer your out of court statements, but you don't get to offer your out of court statemenents

Defendant Rinaldi 14:05

okay? And unless I'm testifying, obviously,

Justice Daniel Billings 14:13

right?

Defendant Rinaldi 14:13

Yeah, okay, that does.

Justice Daniel Billings 14:16

But so I'm going to sustain the objection because of the

Defendant Rinaldi 14:20

okay ,

Justice Daniel Billings 14:21

because of the forwarding stuff

Defendant Rinaldi 14:22

that's fine. So other than that, we're good, right on this document, other than those,

Justice Daniel Billings 14:28

Well I think you have to, no, I think you have to prepare, I mean, as you're presenting it, it has stuff that's not admissible. So I'm sustainable the objection.

Defendant Rinaldi 14:39

Because he objected to these, these pieces that are

Justice Daniel Billings 14:42

the objection is to the document as is. So it which includes those pieces. So you'd have to prepare a document that

Defendant Rinaldi 14:48

he said redacted. So if I redacted them, obviously they'd be fine

Justice Daniel Billings 14:53

all I can rule on it before me. Now which is objectionable. So the objection is sustained that's no prejudice to anything that may be offered in the future.

Defendant Rinaldi 15:04

Okay, okay, I'm sorry. I'm a little confused. This is all a little new to me So, okay, one last, let's keep going. I Okay, so, so again, you stated that in August, September, November, like no work was getting done, correct?

Andy Lord 15:34

Not a lot of work.

Defendant Rinaldi 15:35

Not a lot of work. Okay? And then we've already admitted the picture of the house. I'm sorry for being such a mess.

Justice Daniel Billings 15:44

We referenced it I don't think it actually was

Defendant Rinaldi 15:47

okay. I apologize. I'm so sorry. I Okay, and this one is exhibit W on my exhibit list

Justice Daniel Billings 16:37

Any objection to admitting picture of the house previously to discuss that

Attorney Monteleone 16:47

Objection it's not an accurate representation, given it's a black and white photo, and there is a color version. What was produced was a color version,

Defendant Rinaldi 16:55

I'm not sure if it may have been, I mean, it's, it's, I mean, I don't think the colors gonna change, really anything from the picture.

Justice Daniel Billings 17:04

Objection overruled the courts heard testimony about why it was offered

Defendant Rinaldi 17:10

so again. So that's from, I believe it's when you met at the house that day in September, I'm sorry, August, just before you signed, like day two or three, before you signed the contract. That's what the house looked like. Now, if you look at Plaintiff's Exhibit, the appraisal that you guys discussed earlier in September, there's a picture where the front porch, and you identify the front porch, bonus porch being built. Hold on one second. Where is it? Is the appraisal. So, okay, yeah, so do you have this before you it's the appraisals. Okay, so there's been plaintiffs exhibit, I'm not sure which exhibits. It should be right here,

Attorney Monteleone 18:12

five

Defendant Rinaldi 18:13

Five. Yes, sorry, plaintiff exhibit five, as you can see, this is in mid September, about a month later, you're going to see. You know, front porch being framed, quartz going on there. I mean, quite a substantial amount of work being done now. So just a month later, roofs all on roof wasn't even framed, I think on that one. I mean, it's substantial for one person it's a substantial amount of work. would that be fair to say?

Andy Lord 18:49

What

Defendant Rinaldi 18:50

there's substantial amount of work had been done in that one month? I mean, that picture is from when we met mid August, and then month later you got the roof completely done. You know, the quartz on front porch framed windows in I mean, that's a lot of work for one person in one month. I mean, you know, so, I mean, you were saying nothing was being done and these two pictures show that quite a bit was being done.

Andy Lord 19:13

I was saying, you know, given the original timeline of this being done,

Defendant Rinaldi 19:18

no, I understand, yeah. So you also said that we were always a couple weeks out or whatnot. Now you've clearly had experience in the business. You stated that you testified to that testified to scheduling and all that, which is fine. I don't dispute it. I know you know what you're doing, but my question is, if so you know these builders, if you ask the builder if they could build a custom home with wetlands and a very difficult backfill and all this stuff in nine months, single handedly. most people would probably say that's insane. That's not possible. Would you think that's a fair assessment, considering how much work it takes to build a house, especially a custom house like this.

Andy Lord 19:51

I mean, I've never built a house like this,

Defendant Rinaldi 19:53

yup

Andy Lord 19:54

does seem like a lot of work

Defendant Rinaldi 19:55

It does, right, correct? Yeah. So nine months, I mean, I mean I'm sleeping in my van I mean, clearly. Have it. So you're testifying that nothing was getting done, but the evidence shows that a lot was getting done, and that was pretty much working around the clock. And so, I mean, it's just conflicting. That's all. Would you say it's fair to say that there was a lot of work and done, and it might not have been, and then that one you always said a couple weeks out now, even if I told you that, wouldn't it be fair to say that, with your experience, you can look at and say they're a couple months out, you know what I mean? Would that be fair to say,

Andy Lord 20:27

I think we did say that.

Defendant Rinaldi 20:28

Yeah, okay, so, so, but you keep saying that, that holding me to that, like the extensions and whatnot, and the rate lock for example, did you send me a message about the rate block to sign the extension, or anything like that.

Andy Lord 20:42

I don't know if I did or not.

Defendant Rinaldi 20:43

Yeah, I think Matt did. I'm positive, so I pull it up. But were you aware that I was never told about the rate lock?

Andy Lord 20:50

I was not aware of that,

Defendant Rinaldi 20:51

okay, and didn't know about it till the very end. So you also testified that when I found out, I was mad and just my refused to close in that the reason was because I wanted to get more money earlier you testified. Is that correct?

Andy Lord 21:06

Correct?

Defendant Rinaldi 21:07

Now , in the test messages, I say to you why I don't want to close, I say it's the paving. Needs to be removed from escrow and whatnot. Wouldnt you say that's conflicting with what you know, with what your statement was of why I wasn't closing? Yeah,

Andy Lord 21:24

that's what was in the text messages.

Defendant Rinaldi 21:25

Yeah. I mean, I was pretty clear about it, you know, why I wasn't closing

Andy Lord 21:28

We also had a lot of conversations in person.

Defendant Rinaldi 21:30

Very true, very true. It's fair enough. But, I mean, I'm, you know, stating over and over why I'm not closing and but you're testifying that I'm not closing because I want to get more money. But, I mean, it's the text messages show that I was very clear why I wasn't closing now, why didn't you? You said the reason you didn't because you're not an attorney, but I said four times, I have the legal right to walk. You know, I'm very clear about the fact that I was in the right legally. Why did you guys choose not to tell me I wasn't, or why not to

address that? Why did you guys choose not to say, No you're not, or the paving doesn't have to be removed or you're wrong, or anything wrong. Because you guys have been pretty open with me. You weren't scared to say a lot. To say a lot. So why didn't you say that? And it needs to be logical sense to say you're wrong. If I'm saying I have to legal right to walk

Andy Lord 22:10

because I'm it's not my job to interpret the law.

Defendant Rinaldi 22:13

But we're negotiating. So, I mean,

Andy Lord 22:15

that doesn't give me the right to give you legal advice.

Defendant Rinaldi 22:18

Yeah, but your a realtor this is very common to negotiate and to tell people they're wrong.

Andy Lord 22:22

Um hmm

Defendant Rinaldi 22:22

I mean, clearly pretty good at it. You do.

Andy Lord 22:25

Um hm

Defendant Rinaldi 22:25

You chose not. You chose to allow me to think I was leaving the contract legally, like I was always clearly, under the impression that I was in the right legally. And that's fair to say that I thought I was right. That's all I had the legal right to walk. That would be fair to say based on the text messages,

Andy Lord 22:39

that's what you put in the text message,

Defendant Rinaldi 22:40

yeah,

Andy Lord 22:40

yes.

Defendant Rinaldi 22:41

Okay. So, so knowing that I believe I'm leaving this legally, you guys chose not to tell me that you think that drew thinks I'm wrong.

Andy Lord 22:50

Well, I don't think it's a you guys thing. I don't represent you

Defendant Rinaldi 22:53

I don't need to, but for you in general, you know, what was your dialog with Drew? Or why would you, you know with him? Like, about, should we say you know he's wrong, or let him know that you know this is our position.

Andy Lord 23:06

Again, it's not my position to give legal advice.

Defendant Rinaldi 23:10

Yeah? Like, that's, I mean,

Andy Lord 23:11

that's not what I do. And it says that right in our purchase and. Sale agreement, it says that right in the listing

Defendant Rinaldi 23:16

Yeah but you negotiate any Matt's even telling you that they have the right to get their stuff legally. And you guys are telling me, I'm obligated to do this, this and this legally, but you're not going to tell me I'm wrong when I'm believing I'm walking away legally, like I'm doing the right thing. I'm in the clear. I mean, you think that you guys would say, If you disagree, you tell me, right? I mean, would you it's not legal advice to tell me your position, and that's normal correct

Andy Lord 23:17

Tell (confused)

Defendant Rinaldi 23:33

It's not legal advice to tell me your position that's normal correct on it, like, like, say you believe the paving should be there, or whatever. Normally, if that was the case, you'd say, so, right?

Andy Lord 23:46

So my job in this transaction is to take the contract that we have, the spec sheet, that we have appraisal, that we have financing, that we have, coordinate everything, get together, and work in the best interest of my client. I can't decide that you want to walk down the middle of a transaction. It's not my position to acknowledge it frankly.

Defendant Rinaldi 24:03

I get that,

Andy Lord 24:04

acknowledge it, right?

Defendant Rinaldi 24:04

But part of negotiation is going back and forth, and sometimes you don't agree. I'm sure you've done a lot of transactions. I'm sure some people said, oh, I want this removed. I want that removed. And you'll say, Well, no, this is here for this reason or whatnot. I mean, that's common correct

Andy Lord 24:04

to negotiate thing, yeah,

Defendant Rinaldi 24:06

yeah. In that regard, this does cross the boundaries of the legal because you guys,

Andy Lord 24:22

but we're very careful not to cross the boundaries.

Defendant Rinaldi 24:24

I understand that,

Andy Lord 24:25

but when you say that I'm walking out of this contract, I have the legal right to I don't know that. You haven't talked to an attorney, and they haven't told you that you have the legal right, I'm not going to argue with you because I'm not an attorney.

Defendant Rinaldi 24:36

So you thought it was smart to let me believe I was leaving legally. You thought that was a good idea

Andy Lord 24:41

again, I'm looking out for Drew

Defendant Rinaldi 24:43

I'm asking. Did you think that was a good idea to let me believe I was legally leaving the contract?

Andy Lord 24:48

I don't know if I thought you're asking me if I think you made a good decision.

Defendant Rinaldi 24:53

No, no, I'm asking. So we have established through the text that I clearly thought I was leaving it legally like I was okay I Wasn't getting in trouble. And I made it pretty clear, overly clear, you guys thought it was a good idea to not to tell me that you disagree at all.

Attorney Monteleone 25:10

Objection, all right, as to who is you guys,

Defendant Rinaldi 25:13

I apologize. So I would say you and Drew. You guys thought it was a good idea to not let me know that you disagree.

Andy Lord 25:21

It's not my position to interpret the law for the decisions that you're making.

Defendant Rinaldi 25:26

So that's a no

Andy Lord 25:27

If You thought you should leave the transaction. You should, prob should have.

Defendant Rinaldi 25:30

But If you said I don't agree with you, I may have closed.

Andy Lord 25:34

I think if you read the rest of the text message, when I was basically begging you to come to closing that, I was pretty clear on where my position was in this hole.

Defendant Rinaldi 25:41

Yeah, I just said that you wanted to close. But, I mean, if you disagree legally, like you thought that

Justice Daniel Billings 25:46

you've, you've this question's been answered.

Defendant Rinaldi 25:48

Okay, okay, yeah, no, I got you, I got you. Sorry. Off topic, that's got some of that I would like to submit they showing this view. These are your affidavit, your supplement, supplemental affidavit go into that exhibit OO I think one through, I think, 11. So I should ask those questions and get this into evidence.

Justice Daniel Billings 26:37

Is it marked?

Defendant Rinaldi 26:39

It's marked 00 and it's numbered as well. Can I use it with him and then give it to him after? Is that I do have another copy, I believe, but I really want to waste your time.

Justice Daniel Billings 26:53

Council

Attorney Monteleone 26:54

I object to the admission, but I recognize there may be appropriate places to ask questions about it.

Defendant Rinaldi 26:59

On what grounds you object to his

Attorney Monteleone 27:01

because the affant is is here to testify

Defendant Rinaldi 27:05

prior inconsistent statements. I mean,

Attorney Monteleone 27:07

we have to have evidence

Justice Daniel Billings 27:08

a prior inconsistent statements don't make a whole document admissible.

Defendant Rinaldi 27:12

Okay to proceed, and then Okay, so on your original affidavit, you put Anthony Rinaldi told me that he would not close on the contract to sell the property Mr Pierce for 385 because he wanted to make more money on the transaction by selling to someone else at a higher price. And in the verified complaint, it says I sent a text. So you said they told me, but is that accurate?

Andy Lord 27:37

I believe it is

Defendant Rinaldi 27:38

So can we identify which text I said that in because I know

Andy Lord 27:41

I don't believe it was a text. I believe it was when we were standing in front of the house, when you guys were finishing painting the trim, the day of closing.

Defendant Rinaldi 27:48

I didn't see you the day of closing.

Andy Lord 27:49

You absolutely saw me the day of closing. I was there, when your dad was there, when you got his truck stuck,

Defendant Rinaldi 27:54

you said on the fourth or the fifth, because there's two closing dates the fourth that made be true The fourth maybr true.

Andy Lord 28:01

Okay, so we asked for the time to do our final walk through.

Defendant Rinaldi 28:04

Yes,

Andy Lord 28:04

We asked you to leave and you wouldn't. And then everybody was in the backyard trying to pick up the rest of your tools and supplies.

Defendant Rinaldi 28:10

So I just refuse to leave. That's your testimony.

Andy Lord 28:12

you absolutely refused to leave.

Defendant Rinaldi 28:15

That's crazy

Justice Daniel Billings 28:16

You can't comment.

Defendant Rinaldi 28:17

I'm sorry. I'm so sorry. I'm so there. I apologize. So, nonetheless, so, what is your? So, what is your? What did I say to you on the fourth what was the statement that you're you're trying to say I said,

Andy Lord 28:32

I think it was the fifth. But that that you'd relist this and you could sell with another broker for more money.

Defendant Rinaldi 28:38

Are you referred to where I texted you, I could have it sold next week.

Andy Lord 28:42

No, I'm referring to me. We were standing in front of the garage. We had this conversation. Your girlfriend was painting above what I think is the laundry room window. I clearly remember this

Defendant Rinaldi 28:54

that I said that I'm not going to close because I want to sell to someone else for more money.

Andy Lord 28:58

You said I could sell this for more money, I could sell this quickly

Defendant Rinaldi 29:01

That I said, I'm not going to close.

Andy Lord 29:03

I believe you did.

Defendant Rinaldi 29:05

I didn't say because it was paving and painting. All the texts, none of the texts indicate this. There's no text that says this text.

Andy Lord 29:10

It wasn't a text I was

Defendant Rinaldi 29:11

well, in their complaint it says it's a text,

Andy Lord 29:14

then it's a clerical error

Defendant Rinaldi 29:18

So also in the text, there's a whole section missing that was accidental. You said,

Andy Lord 29:26

Yeah, and we realized that. We corrected it on the Second Affidavit,

Defendant Rinaldi 29:29

even though they were pretty important texts that were missing. Okay. Now, in your affidavit, or your supplements affidavit, you say, despite after Mr Rinaldi missed the closing

he informed me via text message that text message that he demanded 4000 in additional funds from the buyer before he agreed to close on the sale, with authority from Mr. Pierce, I agree to pay Mr. Rinaldi additional 4000 he demanded, despite my agreement to pay Mr. Rinaldi, additional 4000 he demanded. Mr. Rinaldi still refused to close. March 5 now I demanded 4000 You didn't offer 4000

Andy Lord 30:04

Read the text

Defendant Rinaldi 30:05

Okay, so this is between you and I and I, I believe it says, I'll give you four grade if you come right now, please answer the phone. And that's when I said, out of respect for you. I will talk to on Monday but you guys treated me. This is Exhibit Plaintiff's Exhibit. Says B, but I'm not 17. And then line I line, 53 54 and 55 and 56 sorry, I said I respect you all to talk to your monday but you guys treating me like I was stupid and try to squeeze you for every penny unless I had the hud adjusted I'm not closing today. Im taking back the power and then I'll decide what I want to do. And you put the deals off. Monday. I will give you four grand right now. That gets you to the number you want, right? Is that accurate?

Andy Lord 31:34

So I said, What is the number?

Defendant Rinaldi 31:37

Yep, so.

Andy Lord 31:38

And you said, so, I need to think about this. We could talk Monday. The number was 17 eight.

Defendant Rinaldi 31:42

The number that they offered was 17,800 Yes,

Andy Lord 31:43

which was Yeah. And you go, so were off four grand.

Defendant Rinaldi 31:46

I go, yes,

Andy Lord 31:47

yes.

Defendant Rinaldi 31:47

And you go I'll give you the four grand, right now, yeah. But in your affidavit, you stat multiple times that I demanded \$4,000 that I demanded 4000 if you give me 4000 I would close. That I demanded it, you said it very, very clear to say that I said, Give me 4000 I'll close. And then you say at the end, despite the fact that you gave me what I was I wanted, I still wouldn't close. And that's far from the truth. Would you say?

Andy Lord 32:12

I think if you take the context of the whole text, you know the fact the matter was, you were sending all my calls directly to voicemail Nobody knew where you were. I asked, what you want, what number you said, the number we agreed on. Okay. We said, go back and forth again. That was the number 17 eight. Yeah. So, so wouldn't you say that if we what you wanted was the number we agreed on, which is the 17 eight, which is \$4,000 off? Wouldn't you say that you're demanding that money to close?

Defendant Rinaldi 32:41

No, I didn't say. I didn't think about this. You asked what the number was. I told you what the number was, and no point to that. You offered it to me. It's a big stretch for saying I'll

give you four grand, to saying that I demanded four grand, and that when you gave me the 4000 grand, I demanded, I still, for some reason, wouldn't close. That's a big difference.

Attorney Monteleone 33:00

Objection asked and answered

Defendant Rinaldi 33:02

Yep, that's fine. So anyways, I'll keep going. So I this affidavit, I wanted for prior assistant statements, because there it's pretty clear that there are quite a few, and as well as and most of our text messages that are already admitted so exhibit 00

Attorney Monteleone 33:31

objection whatever to the extent that there's a prior inconsistency statement, which I think has not been established here, it's been established testimony. And this is all hearsay of an otherwise available affiant

Justice Daniel Billings 33:47

Objection sustained obviously you can, just as you did with this last one, the the prior inconsistent statement itself was read and is admitted

Defendant Rinaldi 33:59

O I got you,

Justice Daniel Billings 34:00

but that doesn't make the whole affidavit admissible. If there are others you want to ask him about, feel free to do that.

Defendant Rinaldi 34:05

Okay, I got you. I appreciate that. Now you go on about market value of houses, comps, whatnot, and just say that you estimated between 500 550,000 to purchase a similar home, correct based on, but based on your affidavit, and you did list several in that range that's fair to say right

Andy Lord 34:31

Yes

Defendant Rinaldi 34:31

now, the appraisal coming in at 420, is there any reason why that wasn't mentioned?

Andy Lord 34:35

Why what wasn't mentioned?

Defendant Rinaldi 34:37

Why the appraisal value wasn't mentioned in your affidavit? The appraisal just came in just like a week or two prior at 420 and you're justifying that you know it was costing this much to replace it, when the appraisal saying it's worth 100 and something dollars less, is there any reason why you didn't offer the like? Mentioned appraisal. Consider that into this

Andy Lord 35:02

well, the appraisal is at one specific moment in time. An appraisal is a finite document, so it doesn't increase over so, you know, at this point, the property is relisted in March, right? So, you know, I don't, you can list it for whatever you want that has no relevance on my appraisal, and I don't know if your buyers were cash buyers that didn't need an appraisal, or conventional buyers that didn't need an appraisal. So the appraisal is not for me. It's not really for the buyer. It's for the lender to verify that if the buyer defaults on the mortgage, there's sufficient collateral, there's

Defendant Rinaldi 35:40

But it is an estimation of value correct at that date and time

Andy Lord 35:43

Hmmm hm

Defendant Rinaldi 35:44

you're testifying that, you know to purchase a similar was going to cost 100 and something thousand dollars more than that estimated value in just a month. Or a month and some change.

Andy Lord 35:54

So what I what I was saying was, here are three listings that match the square footage, the bedroom, bathroom sizes, and here's what they either listed or sold for.

Defendant Rinaldi 36:05

Yeah, no, I see. But there was some, like, painting issues and some small things that you need on this one. So that would obviously take away. These are finished homes. If there was some stuff that we all agree that wasn't up to par, let's say so. I mean, I just you get into that number. I just find it weird that the appraisal was 420 and you know, it's almost, it almost seems a little inflated. It's almost anything I just anyway, other than that, I think. And then, oh, more importantly, your supplemental affidavit, you say, I understand the contract terms, providing that driving would be paid by Rinaldi with base coat to require installation of a hot mix asphalt coating the contract conclusion that the buyer's finished top of six months suggests installed intention to install a coating other than granular base material, which is typically paved over anytime after base layer of gravel is installed and graded. So you're saying here that the base coat wasn't there, correct?

Andy Lord 37:05

The gravel base was there,

Defendant Rinaldi 37:07

okay, but per the contract, you're saying the base that I was still obligated to provide a different type of base coat, is what you're saying, right?

Andy Lord 37:18

Yes,

Defendant Rinaldi 37:18

okay, now this was, I mean several months. I mean, this is three months after closing, but in your text messages to Craig, you say, and technically the base coat is there, just not the finished coat, so that's implying that I did my obligation. But then several months later, you're testifying under oath that I didn't. So, I mean, I'm just trying to, you know, square these two, what changed in those three months? I mean, you could have all been wrong About the basecoat

Andy Lord 37:44

So the basecoat was there, the base of gravel was there,

Defendant Rinaldi 37:56

yeah. So

Andy Lord 37:58

we have, we have text messages and emails and stuff. But we don't have our conversations. When we stood there and acknowledged that it was just going to be a base coat, it was going to be a three inch binder, and then it was going to need to be redone the next going on to the next year, just because they're not into it, into a text message

Defendant Rinaldi 38:14

So, we had a conversation about that as well that I don't know about,

Andy Lord 38:17

You don't know about.

Defendant Rinaldi 38:19

So nothing in the text though, that indicator, it because the text indicate that you changed your story,

Andy Lord 38:24

My text indicated I was working on behalf of that client. He was willing to take the house as is, and if I could have the lender agree to waive that escrow, he would take it to get it to close.

Defendant Rinaldi 38:33

I understand, but you're saying, to Craig that, that it's not, it's not part of contract, it's not there like and technically, I'm sorry, technically, the base coat is there. So I'm good on the contract that you agree on the day of closing is what this indicates, would that be fair to say

Andy Lord 38:47

No

Defendant Rinaldi 38:48

we could have all been wrong? I'm just saying that we all had an agreement, is what it seemed like.

Andy Lord 38:52

What I'm saying is my client was willing to accept it as it was at that time, and if the lender would accept it,

Defendant Rinaldi 38:58

I'm not asking that. I'm asking you,

Andy Lord 38:59

Do I think that it should have been asphalt.

Defendant Rinaldi 39:01

No, I'm asking you, you sent a message to Craig and with Matt. You say, technically it's there, technically it's not part of the contract and whatnot. So both of those together indicate that I was in the right but so you're, you're saying that's that was. These are just being misinterpreted or or what changed? Because this is pretty clear, that you know that you guys agreed with me on that day.

Attorney Monteleone 39:21

Objection? Is there a question? A question? Yeah,

Defendant Rinaldi 39:24

I'm sorry. I mean, I'm just trying to ask him, What, why? Why his story changed, and why it seems that you agree with me and then you didn't, is what I'm asking. It just seems odd.

Andy Lord 39:35

My assumption through this whole thing and what is written in the scope of work is it'll be a blacktop driveway not a gravel driveway, if my client advised me at that point, when we were at the closing table, getting towards closing, to see if a lender would waive the escrow because there's a gravel base on it that's what I did

Defendant Rinaldi 39:52

But I'm asking about these messages in particular, I understand your I just want specifically you guys are discussing and saying. That basically I'm in the right here, like I want to know specifically, you know, did that just change after the fact? Or what's what Am I misinterpreting here? Because it seems pretty clear that you and Matt both agreed with me.

Attorney Monteleone 40:10

Objection, asked and answered

Justice Daniel Billings 40:13

Objection overruled

Andy Lord 40:16

I don't agree with you. This has always been planned to be a paved driveway.

Defendant Rinaldi 40:21

So can you explain why these?

Andy Lord 40:22

No, I thought you said Matt said technically You said Matt is the one that said technically

Defendant Rinaldi 40:25

No this is you and Craig you said technically the base coat was there, just on the finish code. And Matt said,

Andy Lord 40:30

I said the finish coat was just blacktop

Defendant Rinaldi 40:31

yeah, but here's what we're talking about the contract. And you're basically saying that, you know, and then matt said technically it's not in the contract, just base coat So,

Andy Lord 40:31

so I don't agree with Matt saying that,

Defendant Rinaldi 40:41

okay, all right, but you didn't disagree with him through text at least. Okay, all right. I'll move on, so the possession prior to closing addendum Drew, never moved into the property. That's correct, right?

Andy Lord 40:58

He moved his personal property into the property

Defendant Rinaldi 41:01

when you guys sign this, you guys both texted me, saying, sign this so Drew could put the pod on the property, is what the text say. I can pull up who you like. But I mean, I think we both could agree to that, correct that when I signed it, it was under the assumption the pod. So that was what I was told, like, sign this. So we put the pod on the property. And then later on, they asked if he could move the stuff in the garage. Is that fair to say, accurate depiction?

Andy Lord 41:25

Yes.

Defendant Rinaldi 41:25

Okay, so, but he never actually lived in the home,

Andy Lord 41:30

no,

Defendant Rinaldi 41:31

because I was actually staying there while I was finishing it correct.

Andy Lord 41:33

I don't know where you're saying,

Defendant Rinaldi 41:35

you knew that I was stayig there Andy Okay, I'm sorry. Anyways. So the whole eviction thing, which, there's no evidence, obviously. I mean, I did call the sheriff because I was concerned, because it was a very volatile thing, but the sheriff, from what I understood, and from the text they were helping Drew. Is that correct?

Andy Lord 41:57

Yes.

Defendant Rinaldi 41:58

Okay, did you ever see him get hostile to Drew or say you need to get out of here, or anything along those lines?

Andy Lord 42:04

The Sheriff

Defendant Rinaldi 42:05

yes,

Andy Lord 42:06

it was a female, no, she wasn't hostile,

Defendant Rinaldi 42:08

and she was what did she imply? Just that I was worried about the house, or that

Attorney Monteleone 42:13

Objection hearsay

Justice Daniel Billings 42:16

Objection sustained?

Defendant Rinaldi 42:17

Okay, I can rephrase it, uh, Did you witness drew being forcefully evicted that day?

Andy Lord 42:27

I witnessed her telling him that he had that you had requested that he leave the property.

Defendant Rinaldi 42:33

But you guys, Drew went there on his own volition to get the stuff with you guys correct, you guys, I didn't tell you, though. Then you guys went there on your own to get his stuff.

Andy Lord 42:41

Yes,

Defendant Rinaldi 42:42

okay, and the text messages support that, that he's just going to get his belongings. He he already got a moving truck, I believe, the night before the morning off, correct,

Andy Lord 42:51

the afternoon, late in the day, he barely made it to the U haul, or whatever company it was, because we were at the closing table at four o'clock.

Defendant Rinaldi 42:57

Okay. Um, so I had a text messages. Text message from you or between you and Matt, where you say, you say it was in the morning of the fourth you say, Drew got a moving truck.

Attorney Monteleone 43:22

Objection misstates the record

Defendant Rinaldi 43:24

I'm sorry, just I will Drew got a moving truck that isn't comfortable being out there without a witness, and I know you told me to stay away. What should it I do? Matt responded to you with, I told everyone to wait until 11. So this was clearly the morning of March 5. You just said that he got into barely to get closing because he had to get the moving truck. But before 11, he got the moving truck.

Andy Lord 43:52

Well, I remember him being at closing, calling different moving companies to see that you get a truck.

Defendant Rinaldi 43:56

And you texting, matt Drew got a moving truck before 11?

Andy Lord 43:59

I don't know what date that was or

Defendant Rinaldi 43:59

this was March 5th, because I told everyone, wait till 11, and that was obviously 11 o'clock meeting.

Attorney Monteleone 44:10

Objection, document speaks for itself

Defendant Rinaldi 44:13

Okay? I guess

Justice Daniel Billings 44:16

Objection sustained

Defendant Rinaldi 44:19

that just means that just Okay, all right, so let me just kind of find out some notes for questions in response to stuff you testified to. So with this updated spec sheet. Oh, sorry, forget that the original spreadsheet. So cause it said 1900 square feet, three bedroom, two and a half bath, and it didn't match what you guys believed you were making the offer for you said you're not. You can't change the spec sheet So in those situations, how do you normally reconcile? How do you normally you know, make sure that you're signing a contract for what you want to make sure that they know we want to a 4 bedroom two and a half bath, and we want this house. How is that normally done?

Andy Lord 45:05

We have a detailed spec sheet.

Defendant Rinaldi 45:07

Earlier I mentioned that, and you said, Well, I can't change the spec sheet.

Andy Lord 45:10

I can't change the spec sheet.

Defendant Rinaldi 45:11

So in that case, you can't change the spec sheet So what usually demand that the seller change it, then, to match what you're offering for in a normal situation,

Andy Lord 45:20

or we do an addendum

Defendant Rinaldi 45:22

yeah, an addendum, correct? But normally you would say, can you change this to reflect what we're buying? Or we're going to do this addendum to make sure that we're both on the same page, and then we're signing contract for exactly what we want. You chose not to do that here, correct? Why? Why is that?

Andy Lord 45:38

Because we could see, when we were there, standing there, that this property had is being built to the specs of the email that we previously had the house. We didn't we had asked for an updated scope of work. We didn't at any point intend for you to take down structure that had already been built to build a lesser house that we're now paying more for

Defendant Rinaldi 46:01

We've now established that the front porch wasn't even there, even close. It could have been any front porch. Could have been just a door, so that wasn't there. So you didn't observe that

Attorney Monteleone 46:09

objection mistakes the record.

Defendant Rinaldi 46:10

How did I mistake the record.

Justice Daniel Billings 46:12

Objection overruled

Defendant Rinaldi 46:13

Yeah, that's and then the framing above the garage. That doesn't mean it's going to be finished inside, though, correct? That just means it's framed that way, because those houses normally they're unfinished. Bonus room so you've seen that part, which was there I agree about this frame like that that had changed. Doesn't necessarily mean it's going to be a fourth bedroom. Correct?

Andy Lord 46:31

In our conversations when we met on site that day, that was what proposed to us. That's what we made the offer based on

Defendant Rinaldi 46:36

So I said to you, there's going to be four bedrooms.

Andy Lord 46:38

We waited for the updated contract or the updated spec sheet to Come back

Defendant Rinaldi 46:43

and you chose not to include in the contract. Though

Andy Lord 46:46

Where would we include that in the contract?

Defendant Rinaldi 46:47

You just said an addendum, or you would demand that I change it. So you sign a contract You guys sign a contract drew sign a contract for 1900 square feet, a three bedroom, two and a half bath. You're saying, I said to you I'm going to build you a four bedroom 2020, square foot. But we just all chose not put it in the contract

Andy Lord 46:47

where the contract does it say 1900 square feet,

Defendant Rinaldi 47:05

right under the house, just like in the updated one, says 19, yeah, yeah, right there. So, I mean, it's, it's clear as day So it just seems I just don't understand why, normally you would do an addendum, or you would tell them to change it. Here you're doing, and you're saying, and I said that, but there's no record of that,

Andy Lord 47:22

so we asked for the updated spec sheet that we ultimately did get.

Defendant Rinaldi 47:25

That was a month later approximately

Andy Lord 47:29

to your point, you were working 24 hrs a day

Defendant Rinaldi 47:31

yeah, that's true, but I'm just saying that. But I'm just saying I was never you were there a lot, and you never demanded it, it was the appraiser who asked me for it. So the appraiser asked me a month later for the updated spec sheet, but you never asked me for it nor did Matt So I mean,

Attorney Monteleone 47:45

object to the testimony is question.

Justice Daniel Billings 47:48

You need to focus on your questions.

Defendant Rinaldi 47:50

Okay? I apologize, so I'll get to the point. So anyways, so you never demanded that updated spec sheet till later on. Is what I'm asking.

Andy Lord 48:00

We've asked we asked multiple times for the updated spec sheet

Defendant Rinaldi 48:04

Not through text or emails.

Andy Lord 48:06

I don't know. I mean, I did work in the same office building as Matt. So

Defendant Rinaldi 48:11

I'm not saying that stuff doesn't happen, but I'm saying, but there's no record of electronic record of you guys asking, is what I'm saying, Not that you're aware of

Andy Lord 48:19

Not that I'm aware of

Defendant Rinaldi 48:20

Okay, that's all okay. Now, so you're your testimony that i You didn't ask for Drew didn't Asked for any upgrades. Nothing changed. It was all me. I just chose to build a much bigger house and with more bells and whistles and all that it was on. You guys didn't demand any type of changes.

Andy Lord 48:23

No we didn't

Defendant Rinaldi 48:43

The basement plumbing moving that never happened. Or hardwood

Andy Lord 48:47

I don't have any change orders that are signed by the buyer and the seller,

Defendant Rinaldi 48:51

yeah. But sometimes people it's discussed personally, like in, like, I in our situation, but so, I mean, not always Is it done just like that. Sometimes it's verbal. I mean, that's correct, right?

Andy Lord 49:00

Yes

Defendant Rinaldi 49:00

Okay, if there's no record, I mean, there were changes made from the contract to what was you guys purchased? I never signed an updated spec sheet, but there's what you're aware. There's no record of, you know, any change orders or anything like that, or or in your testimonies, that you guys didn't demand any changes. I just on my own volition Just built a bigger house.

Andy Lord 49:27

My testimony is that the contract offer that we submitted to you contract was based on a four bed, two and a half bath.

Defendant Rinaldi 49:36

Okay, you guys just chose not to do an addendum and chose not to tell me to change it,

Andy Lord 49:42

we'd ask you for the updated spec sheet,

Defendant Rinaldi 49:44

not the updated I'm saying before we signed the contract, when you made the offer, because you said you prepared it or whatnot. So you know that would have been the time to do the addendum Correct.

Andy Lord 49:54

Well, I think we also didn't put in that contract to tear down the gable ends on the garage. But you kept them

Defendant Rinaldi 50:01

What I'm not following.

Andy Lord 50:02

Well, if we're, if we're talking about things that weren't in the contract, we wouldn't have asked you to reduce the build size of this. We were at the property with you. We saw what was being built. We wouldn't have put it

Defendant Rinaldi 50:12

we've established that that front porch wasn't there. We've established that the fourth bedroom isn't finished inside, right? So you didn't see those things being done because they weren't done, because they weren't done, because they hadn't happened. So you couldn't have witnessed that if it wasn't there, and we've established it wasn't there. But you keep saying that it was there? So I'm just trying to emphasize why, if it wasn't there, we've established that. And you could have sent an addendum. You could have said, Hey, change the spec sheet but you guys chose not to

Andy Lord 50:38

we did ask you.

Defendant Rinaldi 50:38

No, the original I'm not talking. I'm not talking I'm talking about the original contract, not later on the original contract. Why did you get why did you sign that without first saying, let's clarify that this is a four bedroom 2200, square feet.

Andy Lord 50:51

Because That was what was provided on the MLS to us in our conversations with you, we asked for an updated spec sheet, yeah. Because with the understanding that we had to have that in order to send this to the appraiser.

Defendant Rinaldi 51:03

But normally, you would normally do an addendum, like you said earlier, or normally you would make them change it. You would never sign a contract intentionally that didn't represent what you wanted to buy, right? That's not

Attorney Monteleone 51:13

objection asked and answered

Defendant Rinaldi 51:15

I'm just trying to pin this down because it doesn't, it seems like he doesn't want to address the fact that it's,

Justice Daniel Billings 51:19

I mean, he's addressed it objection sustained

Defendant Rinaldi 51:21

okay, alright, I'll move on. Sorry.

Justice Daniel Billings 51:25

How much time do you think you have left with this witness?

Defendant Rinaldi 51:27

I probably will be. I want to go, at least go over all the like when he was testifying. I was just making notes on everything. So I'll just try to go this quickly,

Justice Daniel Billings 51:37

starting with plaintiff How much time do you think you need for lunch? Mr. Monteleone,

Attorney Monteleone 51:41

I think that we could slim it down to 30 minutes. Your Honor,

Justice Daniel Billings 51:44

let's do 45 minutes. We'll be back at one. Okay, all right. I.

PART 3 of 4

Justice Daniel Billings 0:00

we're back on record. We'll continue with cross examination of this witness. Remind you, sir that you remain under oath.

Defendant Rinaldi 1:18

I'm so sorry. Okay, something through the winter with no heat or power there's generated there torpedo heaters, which is very common business practice. But I mean, and then you said I would just go to get materials for the day, which find to be odd because hammond yeah, hammond lumber delivered all the materials ahead of time. Because at the very end, when we do a punch list stuff that may have kind of been true, but, I mean, I try not to go to the store at all, if possible. So

Attorney Monteleone 1:55

objection is there a question?

Defendant Rinaldi 1:56

Yes there is. I'm getting to it. Sorry. So when you say that, I just don't believe it to be accurate. You stick by that statement.

Andy Lord 2:04

Yes

Defendant Rinaldi 2:05

So you witness me going daily to the store to get materials.

Andy Lord 2:08

I did i believe you use my Home Depot card on several occasions,

Defendant Rinaldi 2:11

um, like one and two, I believe the appliances and Water heater and then, yes, which was kind of you

Andy Lord 2:19

Paint froze, because there was no heat in the house

Defendant Rinaldi 2:21

The What froze

Andy Lord 2:22

the paint,

Defendant Rinaldi 2:24

that's your testimony,

Andy Lord 2:26

that is.

Defendant Rinaldi 2:28

And when was, when did this happen

Andy Lord 2:31

in the winter when there was no heat?

Defendant Rinaldi 2:33

Okay, so in a normal build how do they normally heat it before the HVAC?

Justice Daniel Billings 2:39

How is that relevant?

Defendant Rinaldi 2:41

No, he just attacking

Justice Daniel Billings 2:42

now you're going far afield. I get your point. Okay, you made the point. Yep, how they generally keep

Defendant Rinaldi 2:48

I'm just a builder.

Justice Daniel Billings 2:52

If you want to testify, you'll get a chance. You need to ask questions.

Defendant Rinaldi 2:55

Gotcha. Nope, I got you. There's just one things that

Justice Daniel Billings 2:58

I understand just move on

Defendant Rinaldi 2:59

as he's Yeah, no, I got you, I apologize, sequencing, I guess I don't need to go there I can testify to that, the rate lock. When the rate lock happened, you said signed the extension. Or Matt said, sign extension, not you. I apologize. There is never there as far as you know, are there any documentation, email, electronic or otherwise that shows any issues between us that would indicate I should get penalized, And was there any do anything be aware of that? Far as I can see, I don't see anything like it seems like Drew and I was getting along to the end, and you and I were getting along

Andy Lord 3:54

I don't understand the question

Defendant Rinaldi 3:54

I got penalized with the rate lock. It's \$7,000 rate lock. So generally speaking, there should be some record of there being a dispute or some tension?

Andy Lord 4:03

Well, I wouldn't say you were penalized. I'd say that we had an initial agreement. This was to close in November. If I'm correct, the rate lock Drew had obtained through his lender financing this property, then you can understand what rates is it? If a rate goes down, I get all that, yeah, I just want to be clear the purchasing power goes down, which means the payment is higher. So when we're factoring in a mortgage payment and what somebody is approved for, if we go over 5% rate to a 7% rate, they're not going to be approved for that same amount. I don't think it was penalizing you, but it was saying, in order for this transaction to go we've already established what the value of this property is. We've established a closing date four or five times now, but the lender is no longer going to be able to complete this process

Defendant Rinaldi 4:44

You say four or five times. There was the November extension, correct, right? November, and then there was the one in January two, and then there was last one from the fourth to the fifth. So there's three,

Andy Lord 4:56

okay,

Defendant Rinaldi 4:57

so you said four or five. So now, is it standard for because, I mean, when we signed the contract, I remember us discussing, I remember specifically Drew saying, I don't care how long it takes, as long as it's built, right, which is the big concern. And I was by myself and doing it myself. So

Attorney Monteleone 5:04

Objection to the testimony, rather than the question,

Defendant Rinaldi 5:15

sorry, I apologize is it standard for a builder to have to pay a rate lock at just said the first extension.

Andy Lord 5:22

I don't think it's uncommon for any builder to pay a rate lock. If we have a if we have a contracted price, we have a pre determined time to close which the lender has said we can guarantee this rate and this approval for this amount of time. That's part of the contract.

Defendant Rinaldi 5:35

Now like extensions are common practice. Almost happen more often than not. Correct.

Andy Lord 5:40

No, they don't happen tha often

Defendant Rinaldi 5:41

extensions on new builds. Your testimony, is on new builds? Extensions don't generally happen?

Andy Lord 5:48

My testimony is, it's not common.

Defendant Rinaldi 5:51

Okay,

Andy Lord 5:53

they happen all the time. Is it 100% of the time? No,

Defendant Rinaldi 5:56

well, it just seems like, from my experience building, that it's we never meet deadlines. I mean, it's just how it goes. I mean, all it takes is one thing

Andy Lord 6:04

That should be something you should be prepared for when you sign a contract,

Defendant Rinaldi 6:07

exactly. But I'm just saying, like, you know, I'm paying that \$7,000 penalty, you know, it seems pretty substantial, you know, from the text and all that it looks like we were getting along fine, you know. So everything was good up to the very end,

Andy Lord 6:18

whether or not we were getting along, if you didn't think you're gonna be completed in time at the first extension, you should have made that known, because now it's impacting his financing

Defendant Rinaldi 6:26

I did make that known.

Andy Lord 6:27

Then why didn't the First extension go through March instead of January or whatever it ended

Defendant Rinaldi 6:33

well, I think we were all being hopeful, but with covid and everything happening, I mean, as as you're aware, you know that was the height of covid, like people weren't supposed to leave their house, so I mean

Attorney Monteleone 6:43

objection to testimony rather,

Justice Daniel Billings 6:44

Sustained

Defendant Rinaldi 6:45

yes, I apologize during that period. Were you involved with any other builds?

Andy Lord 6:50

Yes, okay.

Defendant Rinaldi 6:51

Were they having major issues with material purchases?

Andy Lord 6:54

They weren't.

Defendant Rinaldi 6:55

Were you aware that they were very severe shortages of PVC and other things?

Andy Lord 7:00

Yes,

Defendant Rinaldi 7:01

okay, so you that's a factor, obviously. Okay, so given the circumstances of covid, you would think that apparently, a builder wouldn't be penalized. Given, would that be fair to say or no,

Andy Lord 7:21

say that again.

Defendant Rinaldi 7:16

Well, given, like with covid and all these delays, the nationwide labor shortage as it is. It seems a little odd that I'm paying this rate lock when you know we're looking at best case scenario with covid. I mean, covid was pretty severe. That was like the height of it

Andy Lord 7:29

So if you're asking, were you penalized by a rate lock is that the question,

Defendant Rinaldi 7:29

no more, like, just given the circumstances of covid, do you think it's a little odd that, like, usually it was going the other way, like builders were asking for more money and renegotiating on that basis. You know, we're kind of going the other way

Andy Lord 7:47

Yeah. I mean, I obviously can't speak for other builders Yeah. I think the only thing I can say about the rate lock is the rate lock was in place because his rate was guaranteed. If we go past that, we either have to that would be one of the areas of the contract, were buyers have to be able to obtain financing to prevent that, we instituted the rate lock.

Defendant Rinaldi 8:09

Yep. So now, in January, that extension, you texted me, I need you to sign the extension ASAP. I tried to, it didn't work. And then I noticed there was a \$500

Attorney Monteleone 8:19

Objection to testimony, not a question.

Defendant Rinaldi 8:20

I'm trying to explain the it's is a question. I'm not I'm explaining to him the context, which I'm sure he's familiar with so

Justice Daniel Billings 8:29

just ask your question.

Defendant Rinaldi 8:30

Yep. So in January we did the extension. The first one that was sent to me, it had a \$500 a day, the original one, and then I signed one without the \$500 day. That's correct.

Andy Lord 8:40

Yes

Defendant Rinaldi 8:40

Okay, now that's a substantial amount. I mean, would you agree

Andy Lord 8:45

\$500 is a substantial amount

Defendant Rinaldi 8:45

Yeah, so, well, it could have been up to 30,000 or 20 something thousand, I think, with the rate lock by closing, you know, you sent me a text saying, sign this ASAP, that's correct, right?

Andy Lord 8:57

I'd have to see the text messages

Defendant Rinaldi 9:00

It would be fair to say you sent me some type of text, okay,

Andy Lord 9:02

I'd have to see the text messages

Defendant Rinaldi 9:03

yeah, that's fine. Um, does it seem about all that no one told me about the rate lock or the \$500 a day extension?

Andy Lord 9:12

I think that would be on your agent.

Defendant Rinaldi 9:14

Yeah, your right about that. Your not wrong about that. So, um, anyways, um, So Drew's deposition. I believe it's in your haven't admitted it right. No, un there, over there, I can just pull up. When I deposed drew, and I asked him why the closing what was his interpretation and he said I will read it to you. I know you guys are communicating because they were trying to get you down there because I had already signed all the closing documents and you didn't show up. And then he says, I asked them, What was your understanding of why I wasn't closing that day. He said, I don't remember. I thought you were upset about something that wasn't shared with me. I'm not entirely sure. So you were there texting, as you stated earlier, with Drew and Janice in the same room. You weren't sharing what was going wrong with them.

Andy Lord 10:28

I was sharing some of it. But these, these texts, are rather vague. I'm looking at them right now. You know,

Defendant Rinaldi 10:52

you think those texts are vague.

Andy Lord 10:53

I attempted to call you multiple times, many times, and you kept sending me right to voicemail, but you immediately text me back. If we could have had a conversation at that point, I would definitely be able to tell drew exactly what the problem was. From what you're telling me, the concerns you had at that point were not really drew related. They were Lincoln capital related. They were money related. So in these text messages, and I haven't read through them all, I don't see anywhere in here where it said I was never supposed to build a room above a garage, a farmer's porch for this amount of money all it says is I'm not getting the money I want.

Defendant Rinaldi 11:29

Where does it say that

Andy Lord 11:30

It doesn't say that. That's what I'm saying. So the problem with you not coming to closing was because you weren't getting the money that you assumed you should get

Defendant Rinaldi 11:39

That's your interpretation. I mean, there's no Text that read a few

Justice Daniel Billings 11:39

We've been through this

Defendant Rinaldi 11:44

okay, well, I mean, so you're saying that its not Drew related. Now I'm going to pull up these texts, because they Here we go. Just go over some of them with you from the day closing. Right here. Okay, so, there we go. Okay. So this is Exhibit B, which is, I think, 17, with it, 17 first page. And if you will follow along, let me know when you can leave so I can get my ladder stuff. Thank you. Okay, so here I'm stating I was on my way but Matt calls. Hold on, sorry. I apologize I'm on the number 16 is where I'm trying to start. Just trying to, yeah, they're weird. They go backwards that way and forward the other way Ummm

Andy Lord 13:14

Does it start on page two?

Defendant Rinaldi 13:15

So they starts on page No, it's weird. It's backwards. So it starts on page nine, and it goes backwards

Attorney Monteleone 13:23

Can we reference a line number,

Defendant Rinaldi 13:24

yes, I will give you one right now. Okay, line 29 Isn't it better to take that or lose the house? Come on, man, this is not fair. Now you were referencing me, lincoln capital, taking the house Correct.

Andy Lord 13:44

Yes.

Defendant Rinaldi 13:45

Okay. And then I replied, If I got 17 eight it would still be a breach because it wasn't removed from escrow,

Andy Lord 13:50

what wasn't

Defendant Rinaldi 13:51

we're talking Well, I think we were talking about the paving. So because I say prior, anyways, I'll just keep moving on. So you're saying that your testimony is they weren't Drew related. And I'm saying I'm not legally obligated to at this point. It's not fair how I've been treated And you say you get 13,353 today. So you're not sharing any of like, what I'm asking or what you're offering, because the 4000 that you offer, you must have shared that with them,

Andy Lord 14:21

yeah, I said I'm going to offer him \$4,000 that's the difference. He says we're off

Defendant Rinaldi 14:25

okay,

Andy Lord 14:25

but this isn't saying that drew breached the contract on doing anything. This is just saying you weren't coming to closing

Defendant Rinaldi 14:31

the paving, painting You never mentioned to them.

Andy Lord 14:33

What about,

Defendant Rinaldi 14:34

well, that I was demanding that be removed. I demanded on the fourth but you didn't think it was sort

Andy Lord 14:41

They were aware of that.

Defendant Rinaldi 14:43

So when they filed a lawsuit, they didn't even mention it, though. Nor did you either

Andy Lord 14:47

I can't speak for them

Defendant Rinaldi 14:51

So on the fourth I sent that group text just so on the same page, I'll go up to it. This is on. The 16, I believe, and it's line number 67 and you guys discussed this earlier, where I say just, just so we are on the same page, the buyers are refusing to honor the contract. Matt said, Sorry, didn't it didn't work out again, the buyers were willing to accept the house as is. Now, you didn't. You obviously were on that text

Andy Lord 15:20

Yup

Defendant Rinaldi 15:20

.You didn't. You didn't chime in at all. I mean, we talked the following day, but, and I guess we already established that I clearly thought I was walking away, so I'll keep I apologize.

Andy Lord 15:34

So what are you asking?

Defendant Rinaldi 15:35

And nothing I was gonna go but we've already established I'm not trying to waste you guys this time. So hold on. Let me just get back to yours. Just make sure I don't need more questions, because I'm almost done. Yeah, so I'm good on that one. Um, so what was your understanding of what drew thought was going on and why I wasn't closing? Because then he says he didn't know why, in their deposition, so what was your understanding of what he thought was going on

Attorney Monteleone 16:08

Objection calls for speculation, obviously,

Defendant Rinaldi 16:11

well, he was with him in the room and discussing it with him.

Attorney Monteleone 16:15

I think there's, there's a different question to get at what he's trying

Justice Daniel Billings 16:17

Objection sustained

Defendant Rinaldi 16:18

Okay, sorry, I Okay, were you aware that Matt had said to me, work through the weekend and make back the escrows regarding painting?

Andy Lord 16:31

I don't recall, okay, but just to be clear on the painting, yep, that is how it works. Once the once the work's done, you would the money would have been released.

Defendant Rinaldi 16:42

Yeah. So I had finished painting it because it was like, randomly warm that weekend, and that's why I demanded to be removed. And, yeah,

Andy Lord 16:52

the weekend after

Defendant Rinaldi 16:53

nope on March 4 is when I demanded it to be removed.

Andy Lord 16:56

It wasn't done being painted.

Defendant Rinaldi 16:58

Yeah it was okay. You said the appraiser determines the escrows. They're the one who governs that. Could you elaborate

Andy Lord 17:15

the appraiser can require the escrow or completed prior to closing?

Defendant Rinaldi 17:21

Okay? But you said the appraiser is enforcing the contract as written, making sure there's no shortcuts, discussing the escrows correct

Andy Lord 17:29

discussing the project in general The appraiser is there to verify that it's done so on a different situation. Just so you understand what we're talking about here, if we have a house that we're buying and that deck needs to be painted, they're going to, they're going to go out with an appraisal say, hey, there's going to paint on the deck just needs to be completed prior closing. Okay? They're not going to just assume we're going to do it. They're not going to accept a picture that I send. Yeah, they're going to go back out and verify it. If it's not done at that point, excuse me. Then they're going to put in writing that this, this is going to be the sticking point. Either this concern we have to escrow where it doesn't go to closing

Defendant Rinaldi 18:03

Now, you said the appraisers to redo it It's a lengthy process, and it's not easy.

Andy Lord 18:07

An Appraisal,

Defendant Rinaldi 18:08

no, not to adjust the appraisal. You said

Andy Lord 18:11

it have to be redone so so to thinking about what appraisals do. Is that there's a time gap. Appraisals only good for so long,

Defendant Rinaldi 18:19

I understand

Andy Lord 18:19

A lot of them are only good for 90 days. So we were on the far end of this,

Defendant Rinaldi 18:23

but when you're talking minor adjustment, to the appraisal with an escrow item.

Andy Lord 18:27

No, I'm talking a different appraisal, because now we got to find comparables that are similar and build similar quality, but maybe don't have a paved driveway

Defendant Rinaldi 18:35

to remove

Andy Lord 18:36

to make adjustments for those, right? But an appraiser at this time we were doing, you know, today we could close the loan in 30 days, easily three weeks we could close because we just don't have a lot of transactions going on back then they were like we were up 45 day closings in general. If this would have been weeks to have something

Defendant Rinaldi 18:53

to remove the paving from escrow

Andy Lord 18:56

It would involve us writing an addendum for the contract saying that it's not to be blacktop because the original scope works says blacktop then it would go to the appraiser. The appraiser would determine, does it still have value at that point without that appraiser, then find two or three columns. Thank you to justify

Defendant Rinaldi 19:17

so but with Craig Mathison in your discussions with him. He said, Not today. But so you're, you're, you're saying it probably wouldn't have been Monday,

Andy Lord 19:24

It absolutely wouldn't have been Monday

Defendant Rinaldi 19:26

but you don't know for sure. Obviously it could have been. It's possible I mean, they were working numbers the day before, so

Andy Lord 19:32

they weren't working appraisal numbers, they were working closing numbers. A lot of that is, is figuring out taxes. Remember there were tax liens on this properties that had to be satisfied.

Defendant Rinaldi 19:41

Those are already, yup

Andy Lord 19:42

but they had to be on this all. If you remember, we were down to the wire on that, because that's something with the Raymond board of selectman didn't meet in time, and they had to get an override. You probably remember when i

Defendant Rinaldi 19:42

Yeah, no. I mean, yeah,

Andy Lord 19:55

I had a closing yesterday We didn't get numbers until an hour before the closing. It's it.

Defendant Rinaldi 19:59

But your not you know

Andy Lord 19:59

But it's not as black and white as you think

Defendant Rinaldi 20:00

no, I understand but you're not an appraiser, so you don't fully know if it could be done or not.

Andy Lord 20:05

I don't know.

Defendant Rinaldi 20:05

Okay, so, but again, you guys,

Andy Lord 20:08

but my experience in selling at selling several hundred houses is that these things would take weeks.

Defendant Rinaldi 20:15

But You're saying, take weeks to adjust the escrow.

Andy Lord 20:18

It would take weeks to reappraise the property, reevaluate the property, get the report. It's not just the appraiser can just send a report and We all accept it. It then goes through

underwriting. I don't remember what type of loan this was. I don't remember who the investor was on this loan. They would have to approve it. Then it goes back to the loan officer. We would have to agree, Drew would have to agree in writing. So it's not just a quick process.

Defendant Rinaldi 20:42

I understand what your saying, but I just,

Andy Lord 20:44

we're not talking about changing the color of the paint

Defendant Rinaldi 20:46

Well, you're talking about just one line item. So,

Andy Lord 20:48

A line item it's got a 4 or 5 thousand dollar value

Defendant Rinaldi 20:52

doesn't change anything. You'd have to agree, there was plenty of equity in the house, even if it was the smaller house. I mean, obviously, I mean, the house is worth a lot more than what it was under contract for.

Andy Lord 21:02

Was it worth a lot more in February of that year when it was supposed to have closed?

Defendant Rinaldi 21:06

You're saying in March, it's worth 550,000 now you're trying to say it wasn't worth 385 in February.

Andy Lord 21:12

I'm saying in November, when it was supposed to close, had it the value increased that much?

Defendant Rinaldi 21:16

You think it increased \$200,000 in four months?

Andy Lord 21:21

I'm asking that when we went under contract, we established what the house was going to be in the scope of work. Yeah, and the intention this was going to close November. I don't think it was worth much more than the contract price at that'll have point, which is outlined by the appraisal that came in higher

Defendant Rinaldi 21:34

for the original house, not that

Andy Lord 21:36

It still came in for the house as finished, as you were building it as we all knew that we were going to get as the original house or the updated house, the updated house that we put undercontract We all knew we were going to get that. That we all knew we were going to get

Defendant Rinaldi 21:49

You're testifying for everyone now I

Andy Lord 21:49

That I knew we were going to get. Okay, that's great. You know, if we're going to go off base here, I don't understand why we would have an email outlining the upgrades. I don't know

why. I'd have a conversation with your agent saying, here's the upgrades that were made by previous buyers normal builders

Defendant Rinaldi 22:07

don't pay, don't get compensated for upgrades. That's normal.

Andy Lord 22:10

You got upgraded \$10,000 over what the listed price was on the house So the Didonatos are you aware that he was one of my best friends in high school? Is that relevant?

Defendant Rinaldi 22:19

It is relevant because you guys use them as a you guys brought them up earlier, and you stated that these, I made the changes with the Didonatos So they were paying 487,000 he was helping me build it, yeah, but helping me build it as well. And a friend of mine, so you guys bring them up, and it isn't really Objection to testimony the test, yeah, I got i understand No, I got you. So you're stating this, but yet again, you chose not to put an addendum you chose not to address it early on. Under the contract, we signed a contract clearly for three bedroom, two and a half bath, 1900 square foot home and either way, both spec sheets, you'd have to agree more initials. So I mean, it's up to me whether they're included or not. So what was your the day of closing? I mean, so just to pin this down, what do you what did you discuss with Drew?

Andy Lord 23:13

Well, Drew's at the house all morning with you so we all had on the fifth.

Defendant Rinaldi 23:18

Yeah, are you crazy on the fifth. I'm sorry. I'm so sorry. I'm so sorry. Drew is absolutely not with me on the fifth. I swear to I mean, Objection your honor I know, I know. I'm so sorry. Okay, um, fifth, when you were at closing, what was, what was your what was it? What did you discuss with him in its entirety? So his idea of what, why the closing didn't happen, and I'll leave it at that. Okay,

Andy Lord 23:44

So at that point, the discussion was you were not getting the money that you thought you wanted to get, and you were not coming to closing

Defendant Rinaldi 23:50

that's what you would relayed to him okay, all right, fair enough. But nothing about the painting and paving.

Andy Lord 23:56

I think that was already addressed in the escrows, that we already all agreed to

Defendant Rinaldi 24:01

Can you elaborate?

Andy Lord 24:03

Did you not get estimates for all these escrows? Did you not?

Defendant Rinaldi 24:05

yeah you told you. You asked me to Yeah.

Attorney Monteleone 24:08

So objection to testimony that's not a question.

Defendant Rinaldi 24:10

Sorry, yeah. Anyways, keep going. So you were I cut you off. I didn't mean to.

Andy Lord 24:18

So through the appraisal, through this whole process, we knew there was going to be escrow, right?

Defendant Rinaldi 24:24

Okay, yeah, okay,

Andy Lord 24:25

you contacted, I forget who it was now in December, yeah, estimates for the pavement, and it said asphalt. So we knew that. So we can argue all day whether it was supposed to be a gravel driveway or a paved driveway. Is very clear it was supposed to be a paved driveway Everyone knew it was supposed to be a paved driveway

Defendant Rinaldi 24:44

You say everyone knew, but the contract doesn't state that

Andy Lord 24:47

What I was talking to you

Defendant Rinaldi 24:48

I understand

Andy Lord 24:50

the conversations we had with Drew and Susie at the time was, take it as is. You want to finish this yourself. Is it worth putting an end to this at that point Drew was like I'll take it as is

Defendant Rinaldi 25:01

so their original complaint states that they agreed to work with me after closing to complete those omissions.

Andy Lord 25:07

You didn't come to closing. It never closed

Defendant Rinaldi 25:09

again. Their original complaint states that, but that was not you're telling me. That's not what his understanding

Attorney Monteleone 25:15

objection relevance. This isn't a party statement.

Defendant Rinaldi 25:18

It's very relevant. I'm talking about their complaint. What they're telling me, I'm asking him if that's if that's what his understanding was.

Justice Daniel Billings 25:25

Why does that matter?

Defendant Rinaldi 25:26

Well, it contradicts what their original complaint was about. I'm

Justice Daniel Billings 25:29

So why he's not a party.

Defendant Rinaldi 25:32

Well he has direct knowledge

Justice Daniel Billings 25:33

Objection sustained

Defendant Rinaldi 25:32

I apologize I'm not trying to annoy anybody. I really not. All right. I'll keep going. now you're saying the paint escrow. There are issues with that, other than being completed,

Andy Lord 25:51

It wasn't

Defendant Rinaldi 25:51

okay, but you not a lawyer, so obviously that's something that because with the paving you stated

Andy Lord 25:59

I'm not a painter, either. But I know it

Defendant Rinaldi 26:00

you know, okay, but it's your testimony that the painting wasn't up to par. Is that what you're saying

Andy Lord 26:08

The painting wasn't completed on the exterior,

Unknown 26:10

but on the fifth the painting was completed?

Andy Lord 26:13

The painting was not completed on the 5th

Defendant Rinaldi 26:15

Okay? All right. Now, did you direct me to get the did you tell me I need to get the estimates for the top soil the paving and the painting? Did you direct me to say, hey, you need to get estimates so that's we can escrow.

Andy Lord 26:37

Yeah, we're gonna escrow some you as the owner.

Defendant Rinaldi 26:38

Yeah, no, I know, and I'm not being you know, but yeah, just okay. So when you direct me to you you assumed, obviously, but you were interpreting the contract properly correct.

Andy Lord 26:50

(Inaudible)

Defendant Rinaldi 26:52

When you told me to get the estimates for X, Y and Z. You obviously assumed you were it was based because you interpreted the contract correctly by telling me those things,

Andy Lord 27:03

I was interpreting the contract that so the scope of work says that it's going to be 25 feet around the building loam and seeded

Defendant Rinaldi 27:10

Yes,

Andy Lord 27:10

it's going to be a blacktop driveway.

Defendant Rinaldi 27:13

Reason I'm asking, since I trusted that you you understood what you were saying. So when you told me to get them I got them, I'm saying but you, on your end, you believe that what you were telling me was accurate?

Andy Lord 27:23

I was going by, yes, I was going by. The scope of work,

Defendant Rinaldi 27:26

what you read in the contract? Right?

Andy Lord 27:27

Right?

Defendant Rinaldi 27:28

Okay, which, again, is a legal thing, correct?

Andy Lord 27:30

That I read the contract?

Defendant Rinaldi 27:32

No. Well, you guys discussed that, you're not a lawyer and that these contracts are legal things. And so when you said you're very safe, not to give legal advice. But here we are in your you know, we're discussing that you are directing me to get X, Y and Z based on the legal interpretation.

Andy Lord 27:47

No, I think you're going to different directions. Here we're going to talk about an escrow, which is to your benefit, because you didn't have the funds or the time to do this. That is an avenue to get this to closing, to get it done, and weather didn't permit it anyway, right? There were no asphalt plants open at the time. Couldn't spread loam in March, right? Okay, so I don't think that's giving any legal advice any different than if the contract said it's supposed to have a tile shower and it has an acrylic shower.

Defendant Rinaldi 28:14

Well, I mean, the wording of the contract and the gravel the top coat it was the base coat was me, the top coat was them. I mean, that's legal

Andy Lord 28:21

When I buy gravel

Defendant Rinaldi 28:23

that's on the second spec sheet, correct?

Andy Lord 28:26

No it's on both

Defendant Rinaldi 28:27

That says blacktop but the heading of it,

Andy Lord 28:28

it says driveway blacktop. So, if you go to Shaw brothers

Defendant Rinaldi 28:32

I'll pull it up

Andy Lord 28:33

and say you need a dump load of asphalt, a lot different than a dump load of gravel don't you agree.

Defendant Rinaldi 28:40

I mean, I'm not here to testify, so yeah, but

Andy Lord 28:46

You have been

Defendant Rinaldi 28:47

I know, yeah, you're right. So Are you still working for Matt Dibiase

Andy Lord 29:07

No

Defendant Rinaldi 29:09

the Lord group is not no longer under the landing,

Andy Lord 29:11

It's not

Defendant Rinaldi 29:13

really? Oh, okay, which is, when did that happen? I'm just curious

Attorney Monteleone 29:18

Objection relevance.

Justice Daniel Billings 29:22

Objection sustained.

Defendant Rinaldi 29:22

Yeah. Yep, all right, now the \$2,500 that you removed from your commission, right, that was done by Matt or obviously with your, you know, obviously had to be with your consent, correct?

Andy Lord 29:52

No, that's the agency share of my commission.

Defendant Rinaldi 29:56

Okay, so he did that on his own.

Andy Lord 29:58

Yeah

Defendant Rinaldi 29:59

Okay? Is it normal for appraiser to give up all their commission?

Andy Lord 30:02

No,

Defendant Rinaldi 30:02

I'm sorry, a realtor real estate agent.

Andy Lord 30:05

No

Defendant Rinaldi 30:07

Okay. Now, the 11am meeting on the fifth, were you aware of that meeting

Andy Lord 30:14

With who

Defendant Rinaldi 30:15

of Lincoln capital, Matt and myself?

Andy Lord 30:17

I was aware that it was supposed to happen.

Defendant Rinaldi 30:20

Yeah. Okay, and that, I mean, I believe there's a text when you check in on the progress, or something like that, is that correct?

Andy Lord 30:28

Is that the text message

Defendant Rinaldi 30:29

Yeah, so,

Andy Lord 30:33

Yes

Defendant Rinaldi 30:34

so leaving that, that meeting where on the fourth it was my I'm sorry, what was your understanding? What happened at that meeting, or what was discussed and what was offered, or whatever,

Andy Lord 30:45

I don't really recall.

Defendant Rinaldi 30:47

So when you finished after that meeting and we were trying to make a closing happen, you don't know what I was told or what I was offered.

Andy Lord 30:55

I don't know. I mean, I never saw what you owed to begin with. I never saw your construction loan or your escrows with Lincoln. So I had no idea where you were at

Defendant Rinaldi 31:02

so, but you did

Andy Lord 31:03

All I knew was what was on the Alta.

Defendant Rinaldi 31:06

Yeah, you did have contact with Lincoln to some extent. You did have contact with Lincoln, to some extent, correct?

Andy Lord 31:11

Yes.

Defendant Rinaldi 31:11

Okay, did you direct them to issue a check to to Derek?

Andy Lord 31:16

No

Attorney Monteleone 31:17

Objection, relevance

Defendant Rinaldi 31:19

Well, I think it's the buyer's realtor, and I think all of this is relevant, considering they're all factors, and part of the reason they're coming up with money was because there was money missing.

Justice Daniel Billings 31:28

Objection overruled and Your answer was, No,

Andy Lord 31:30

That I directed a check to be cut.

Defendant Rinaldi 31:34

Okay, this is exhibit do?

Attorney Monteleone 31:56

What is? What are we looking at?

Defendant Rinaldi 31:58

This is exhibit Y it's been in most of the motions I can give a copy could you take a look at this? So it's you sending Ryan an email. What's the schedule for cutting an invoice on the check and with Derek Ray, I believe so it was

Attorney Monteleone 32:37

Objection question seeks hearsay

Justice Daniel Billings 32:46

objections overruled he had given his last answer he can.

Andy Lord 32:51

So this would appear that Derek forwarded me an invoice. I mean, there's no attachment to this, so I don't really know Sure. So I don't really know the context of it. And frankly, I've done work with Derek. I've also done work Lincoln. I have no idea. I guess it does say cape rd invoice, but I have no idea what invoice this is so,

Defendant Rinaldi 33:12

but it does appear that you were just passing along the invoice to get paid for Derek Ray another Landing Agent

Andy Lord 33:21

Derek Ray also owns D&G property management So whether he's a real estate agent or not, you know, I, I've done business personally with Lincoln, so have you, and you know that it's processed to get paid. It's an inspection,

Defendant Rinaldi 33:35

yeah, I know

Andy Lord 33:35

okay,

Defendant Rinaldi 33:36

that's what's so odd about

Andy Lord 33:37

you think that maybe that was just asking hey, you know, has there been an inspection

Defendant Rinaldi 33:37

I'm not trying to, yeah.

Andy Lord 33:42

I don't see that as directing the payment of invoice just the status of it

Defendant Rinaldi 33:46

Sending along an invoice. I'd like to admit exhibit Y page one,

Justice Daniel Billings 33:57

and what's the relevance of this.

Defendant Rinaldi 33:59

He was directing my bank not directing but he was forwarding invoices to get paid that I wasn't aware of. And so they came up with money due to this, because all this money went missing. It just the whole entirety. The reason that they came up, what they did was to compensate for upgrades and and the paving and painting came later with their original complaint. They were stating that they came up for the paving and painting, but that's just not the case. It's it they came up because of because of this. So umm you know, the buyer's realtor is discussing stuff with my bank, and I was out of the loop. And all of a sudden all the money was missing, and I wasn't told about it.

Attorney Monteleone 34:32

Object to because this exhibit is incomplete, it references a an invoice that's not part of the exhibit, and incorporate statements that are hearsay, third parties that are relating to Mir rinaldi's lender that foundation hasn't been laid for so I'm for both those bases.

Defendant Rinaldi 34:48

This is all I received from them. So

Justice Daniel Billings 34:51

Objection sustained. I allowed you to ask this witness about it because it went to whether his witness, whether his answer was true or not allowed you to do that, but that doesn't make the email itself admissible. So the objection sustained

Defendant Rinaldi 35:09

okay, um, uh, so March 4 when I found, I think it was the third or fourth, when I found, got the first alta or hud whatever you call it. It was 2700 but that was without the plumbing bill, correct? I mean, if you remember, right? So I think it was a negative of 100 or something was what it was.

Andy Lord 35:49

I never saw one that was negative 100 though.

Defendant Rinaldi 35:51

Well, it's but so you stated that, that I responded, basically refused to sell the house. Now, what brought me to that conclusion on the third or fourth, whenever that whenever I received that first hud

Andy Lord 36:08

Ask me that one more time

Defendant Rinaldi 36:08

so what brought you to the conclusion that I just refused, I outright refuse to sell the house on the third when I first, he actually, when I first received, found out that I was getting basically nothing.

Andy Lord 36:17

Yes,

Defendant Rinaldi 36:18

you said I just refused to sell the house. What brought you to that conclusion

Andy Lord 36:23

Well I'm sure the conversation that we had

Defendant Rinaldi 36:25

I just said, I just don't want to sell the house,

Andy Lord 36:27

(Inaudible) didn't come to closing

Defendant Rinaldi 36:29

Yeah but the text are pretty clear Why I didn't come to closing so. But other than that,

Attorney Monteleone 36:33

Objection to testimony

Defendant Rinaldi 36:33

I apologize. I apologize so your testimony, as you said, conversations we had, brought you to that conclusion. Do you remember anything in particular?

Andy Lord 36:41

Do you remember any conversations we had in the three or four days leading up to this?

Defendant Rinaldi 36:44

Yeah,

Andy Lord 36:44

we were up there and we were trying to play.

Defendant Rinaldi 36:46

One day we

Justice Daniel Billings 36:47

You're not asking questions,

Defendant Rinaldi 36:48

yeah, so I keep it moving. Okay. Oh, you know what, let me just go through this is I'm almost done with this. So group text with Matt and Andy. I don't know if it's just Matt, but I'll find it. But as I'm going Matt had sent me a text, or it might have been a group text I'm trying to find it right now, but that you would call RMS, and he was trying to get money removed, or something about the rate lock. This was on like the in the late February, before the painting or paving Do you remember why you were trying to get the rate lock reduced?

Andy Lord 37:36

The rate lock was written as an estimate. So that was the estimate of what it was going to cost to keep that rate for that amount of time. There's two numbers on that. Then, if I remember correctly, one was a rate lock, the other was prepaid interest. Okay, prepaid interest is factored based on when what at what point in the month you close, the bank's always going to collect interest from the day you close through the end of that month prior to your first interest is collected when we signed the addendum for the rate lock Prepaid interest. It was an estimate based on what day we thought we were going to close when we actually got down to it and calculated it. It was not as much as the original estimate. Was

Defendant Rinaldi 38:19

So the interest you're talking

Andy Lord 38:21

and the rate lock

Defendant Rinaldi 38:22

and the rate law. So was it that the full 3000 that you reduced it, or was it or somewhere in between?

Andy Lord 38:27

No, it was reduced whatever the actual amount was based on the days that we

Defendant Rinaldi 38:30

Oh, so you guys didn't actually reduce your estimate. You just matched it to what it was. It was an estimate, and then you match it to what actual correct

Andy Lord 38:39

we had an addendum that specified a dollar amounts.

Defendant Rinaldi 38:41

Yeah, I got you I'm just trying to clarify.

Andy Lord 38:43

By rights, we could have collected the whole amount

Defendant Rinaldi 38:45

Yep,

Andy Lord 38:45

when we recalculated it to the exact date of closing, that's when it came down.

Defendant Rinaldi 38:50

Okay. Now, why were you guys reducing it, though? Because Matt, let me find the message real quick so that we're all on the same page I think it's the group it must be a group message. So I Okay,

Justice Daniel Billings 39:19

sir, what? Why is this important?

Defendant Rinaldi 39:20

No, they just reduced the rate lock. Their original complaint says they did that to compensate me for the paving and painting and I just want to establish why they did it.

Justice Daniel Billings 39:29

He just told you

Defendant Rinaldi 39:30

Well, he said, why. He said that dollar the you know, they didn't have to do that. But like, was there, Matt was, if I got the message, I might clear it up a little bit. I apologize. If not, I'll just keep it moving. So he said, you know, there was a difference, but they didn't have to reduce that. They were doing it to compensate me for something, you know. So I was just trying to pin that down. But I am.

Justice Daniel Billings 39:51

He just answered the question,

Defendant Rinaldi 39:53

okay, I'll just move on. Then I. I can't find it anyways. I'll wrap it up with this. I have much more so on the on the fifth, when you guys came to the house after a closing fell through that was to get, obviously, Drew stuff out of there, correct?

Andy Lord 40:35

Correct

Defendant Rinaldi 40:35

So you guys are already there, removing his belongings prior to the sheriff even coming nevermind I'm not gonna do that again. I think I'm good. Actually,

Justice Daniel Billings 40:57

redirect.

Attorney Monteleone 40:58

Mr lord can I follow up on some of the questions that you were just asked. Can I refer you to exhibit four? Corrected spec sheet did exhibit four change the terms of the contract that the parties understood that they agreed

Defendant Rinaldi 41:39

Umm exhibit four. He said,

Attorney Monteleone 41:41

Yes,

Defendant Rinaldi 41:44

sorry.

Attorney Monteleone 41:49

Is it is it common to prepare an addendum? Is it common to prepare an addendum for something that is not necessarily a change.

Andy Lord 42:02

No

Attorney Monteleone 42:03

I suppose an addendum is one way to incorporate additional documents in

Andy Lord 42:09

correct

Attorney Monteleone 42:13

but in this case, what was your understanding of the origins of exhibit four

Andy Lord 42:21

origins? My understanding was that Mr. Rinaldi provided it. This was the updated scope of work for the house to be built.

Attorney Monteleone 42:29

And upon your review of it, what was your What was your conclusion about whether it accurately reflected the build that Mr. Rinaldi had described he intended to build, and what, what your client had expressed he intended to buy,

Andy Lord 42:45

This was exactly what he intended to buy

Attorney Monteleone 42:51

and in what way did that correspond with what you actually saw Mr. Rinaldi building.

Andy Lord 42:57

This was very good representation of what was being built,

Attorney Monteleone 43:00

more so than than the erroneous spec sheet that was originally attached

Defendant Rinaldi 43:05

objection. calling it erroneous. I mean, now hr I don't know how it's erroneous

Justice Daniel Billings 43:13

Objection sustained. The question was leading

Attorney Monteleone 43:13

Please, can I if I could refer you to exhibit 13? Now you referenced on your cross examination an estimate that had been prepared. What is exhibit 13?

Andy Lord 43:51

It's an estimate for paving the driveway

Attorney Monteleone 43:56

Where did exhibit 13 originate?

Andy Lord 43:59

Mr Rinaldi gave it to me

Attorney Monteleone 44:00

And What is it?

Andy Lord 44:04

It's a asphalt driveway estimate for 160 by 10 foot driveway.

Attorney Monteleone 44:08

And is this that consistent with the with the driveway that the contract, in this case, contemplated,

Andy Lord 44:10

This is consistent with what we expected to be there,

Attorney Monteleone 44:25

and was, was this? What was the exhibit 13 estimate? What was ultimately relied upon in in the escrow calculation?

Andy Lord 44:38

Yes

Attorney Monteleone 44:43

at any time Mr. Mr. Rinaldi say, No, I don't have to do that when he, when he obtained or provided you with exhibit 13

Andy Lord 44:51

No

Defendant Rinaldi 44:52

Can I object this exhibit 13 is, is new material, unless I can recross. it wasn't discussed in your original. I could be off.

Attorney Monteleone 45:05

It was discussing cross

Justice Daniel Billings 45:07

objections overruled

Attorney Monteleone 45:11

And since we're here discussing exhibit 13, ask you is, is exhibit 13 a true and accurate copy of the file that you received from from Mr. Rinaldi for the estimate

Andy Lord 45:22

Yes

Attorney Monteleone 45:24

I'd move admission of plaintiffs 13.

Justice Daniel Billings 45:27

Any objection

Defendant Rinaldi 45:35

No

Attorney Monteleone 45:35

I also refer you to exhibit 17, just as a bit of housekeeping. Given the conversations that you had, Mr. Rinaldi's questions confirm that exhibit 17 is at least the portions of the text message that are included in Exhibit 17 are true and accurate. Copy of the communications you had with Mr. Rinaldi between line one and line 73

Andy Lord 46:06

Yes

Attorney Monteleone 46:07

I'd move for admission of plaintiff 17,

Defendant Rinaldi 46:10

I would like to add whatever's missing there. So we have a complete document

Attorney Monteleone 46:14

this is your exhibit B, from your summary judgement

Defendant Rinaldi 46:18

No, I understand. I just do you know the dates it's from? I think it's just,

Attorney Monteleone 46:23

it's your exhibit B, Mr Rinaldi.

Defendant Rinaldi 46:25

No, I understand. I know it's my exhibit B, but it's not a complete series of text. It'd be nice to add the remaining of the text to it.

Justice Daniel Billings 46:32

You have exhibits that you want to add. In your case, you can.

Attorney Monteleone 46:35

It would be nice to receive other texts if you have if you have other texts. I think this case, I would be nice to receive them.

Defendant Rinaldi 46:41

Yeah I mean, I'm more than happy to send them,

Justice Daniel Billings 46:48

Objections overruled it's admitted

Attorney Monteleone 47:04

you would also discuss the rate lock being reduced, if I can refer you to again, to plaintiffs 11. Now, we had said before that it's that line to the seller, credit is referenced, the rate lock

Andy Lord 47:26

correct.

Attorney Monteleone 47:27

Now is there? Is there another document that identifies that that number was was reduced, exhibit 12. So this is looking at exhibit 12. Exhibit 12. What day was exhibit 12? Issued

Andy Lord 47:48

On the 5th

Attorney Monteleone 47:49

and forgive me to clarify what is 12 relative to to exhibit 11. I

Andy Lord 47:55

It's the updated Alta statement

Attorney Monteleone 47:59

And so where, where do you identify that the rate lock was reduced.

Andy Lord 48:05

The seller credit is reduced

Justice Daniel Billings 48:07

from seven, 7000 to 4000 then change,

Andy Lord 48:11

yes,

Attorney Monteleone 48:12

7392 to 4625 okay, and did you have, did you have any any obligation to give anything less than the precise dollar amount that was identified in the rate lock addendum?

Andy Lord 48:31

No,

Attorney Monteleone 48:33

so at this stage of the proceeding, why did you agree to do that

Andy Lord 48:42

at this stage? The second alta statement, a lot got reduced here. We were just trying to get it to close

Attorney Monteleone 48:50

now, similarly, you would, you would testify about communications, or you were asked about communications you had with the lender in trying to get it to close. In that respect, what was, what was the purpose of your questions, the lender and your representations, the lender regarding, regarding the paving,

Andy Lord 49:19

my purpose of it was to at that point, Drew was willing to forego that if we could still close this. So we were trying, essentially, whatever money we could give to Mr. Rinaldi to entice him to come close

Attorney Monteleone 49:35

right now. And is that because you believe that Mr. Pierce was in the wrong, that something had been done wrong in terms of what was withheld from these escrows that were withheld from, just from all these proceeds.

Andy Lord 49:47

Absolutely not

Attorney Monteleone 49:50

But if you, if you didn't, Well, nevermind. I'll leave that question strike it. I. No further questions.

Justice Daniel Billings 50:13

Thank you sir you may step down call the next witness.

Attorney Monteleone 50:29

And just to clarify, Your Honor, is Mr Lord free to free to leave.

Justice Daniel Billings 50:36

He assuming he's not here under subpoena from Mr. Rinaldi then he's free to leave as long as you I don't know if you subpoenaed him or not, but you're releasing him

Attorney Monteleone 50:45

I'm comfortable releasing him.

Justice Daniel Billings 50:47

It's fine by me.

Attorney Monteleone 50:52

Next call Isabel Shomaull

Defendant Rinaldi 51:05

is this your expert,

Expert Paving 51:15

Isabel schonemao

Defendant Rinaldi 51:23

Objection Her testimony is, I feel like highly prejudicial because they have no evidence that they their original complaint has nothing about paving they never amended it. So her testimony is, It's all fine and dandy that has nothing to do with their original complaint and what they're actually arguing. I mean, she's testifying to paving when the original complaint states that I sent a text saying I could sell it for more money. Their original complaint doesn't even mention the word paving.

Justice Daniel Billings 52:01

He gets to ask questions, and if you have objections to questions, we'll deal with it as they come.

Defendant Rinaldi 52:06

Okay,

Attorney Monteleone 52:10

good afternoon, Mr. SchoneWalt, so I understand you go by. B,

Expert Paving 52:17

yes.

Attorney Monteleone 52:18

Is it okay if I if I call you? B,

Expert Paving 52:19

please

Attorney Monteleone 52:20

As we talk here today. So what, what is, what do you do for a living?

Expert Paving 52:29

I am a licensed professional civil engineer practicing in civil engineering and a specialization called geotechnical engineering. And

Attorney Monteleone 52:38

what kind of kind of work? Does that? Does that entail, in layman's terms,

Expert Paving 52:44

geotechnical engineering is like structural engineering, but instead of working with concrete and steel, I work with soil and bedrock.

Attorney Monteleone 52:53

Do you work? Do you work with roads

Expert Paving 52:56

Yes?

Attorney Monteleone 52:56

Is that a focus of your of your engineering expertise,

Expert Paving 53:01

piece of it. Yes.

Attorney Monteleone 53:02

And are you a are you licensed,

Expert Paving 53:05

I'm a licensed professional engineer?

Attorney Monteleone 53:07

And how long have you been licensed as a professional engineer?

Expert Paving 53:11

About 33 years.

Attorney Monteleone 53:13

And I imagine that process of becoming an engineer requires some education before that.

Expert Paving 53:20

Yes,

Attorney Monteleone 53:21

could you tell the court a little bit about your educational background?

Expert Paving 53:24

I have a bachelor's degree in geology, bachelor's degree with high distinction in civil engineering, and a master's degree in civil engineering focusing on geotechnical and so

Attorney Monteleone 53:40

So in your in your professional work over the past 30 years, and to work in what ways do you work with roads and road materials?

Expert Paving 53:52

I do a significant amount of earthwork, design and construction oversight that includes road building materials as well as pavement materials.

Attorney Monteleone 54:11

So how did you come to be involved with this case about a person sale contract dispute in Raymond May

Expert Paving 54:20

I was asked by Bernstein sure to review contract language that related to driveway.

Attorney Monteleone 54:28

And are you aware if you were, if you were designated as a as an expert witness in this case,

Expert Paving 54:34

I understand that

Attorney Monteleone 54:36

yes. So in the course of your review, I think you identified contract mentioned, you would have reviewed contract language. Now, have you reviewed the language that is in Exhibit four that you've heard, you've heard discussed. I.

Expert Paving 55:00

I reviewed a small amount of

Attorney Monteleone 55:04

the contract language and

Expert Paving 55:06

yes,

Attorney Monteleone 55:07

to be more clear, did you review the language that relates to the driveway in Exhibit four, to please is the page that is just in front of the signature boxes

Expert Paving 55:19

exhibit four. Page six of exhibit four, and

Attorney Monteleone 55:35

what is, what is that? That contract language? How does it? How does it identify, what the what the driveway entails.

Expert Paving 55:42

It's very simple driveway, dash, blacktop, okay,

Attorney Monteleone 55:47

now, in your professional experience working with road materials, what is blacktop?

Expert Paving 55:57

Blacktop is often called hot mix asphalt. It is a bituminous material that is put down with specialized equipment.

Attorney Monteleone 56:07

Have you ever encountered a circumstance in which blacktop was interpreted to mean gravel?

Expert Paving 56:18

I have not. In my experience, blacktop is not used to describe any soil material.

Attorney Monteleone 56:24

And when you say soil material does what?

Expert Paving 56:28

Gravel, crushed stone, some folks call it bank run gravel, these are all soil materials, soil materials that would come out of the earth, as is now

Attorney Monteleone 56:43

there has been some discussion about different spec sheet versions, different contract language versions. Have you seen other other references to driveway materials in other contract documents? Other documents I

Expert Paving 56:58

I did. it just includes, again, driveway, dash, blacktop, and then it has some additional information. Okay,

Attorney Monteleone 57:09

so if I can, if I could refer you to exhibit two, if you turn back to where the where, there's a Photo Rendering, I think maybe you have to go back six pages in to Find those unnumbered pages, or five five pages in i and in this version, how does it identify that the driveway material?

Expert Paving 57:52

Again, it's driveway dash laptop, and then it provides some notes. Okay, now,

Attorney Monteleone 58:01

in your your experience looking at residential driveways, how many layers we typically talking about of the pavement we would be looking at,

Expert Paving 58:15

typically two, okay, sort of a base coat that's a little thicker, and then a top,

Attorney Monteleone 58:21

okay, and then is there typically, I mean, is a gravel, a gravel course part of the roadway sequence.

Expert Paving 58:31

That's usually the first thing that goes down. It serves as the bedding layer for the asphalt and material.

Attorney Monteleone 58:39

And is that bedding layer in any way, again, in your in your experience with industry terms, is that bedding layer in any way, the blacktop,

Expert Paving 58:50

I've never heard blacktop being used to describe the soil or the gravel. That's typically a base course

Attorney Monteleone 59:02

that the gravel is, but instead is so. What's the distinction between a base course and a black top surface?

Expert Paving 59:14

The base course is a granular material often called aggregate. It usually comes out of a pit a borrow area. Sometimes it runs through screens to get gradation correct, but it's placed with earthwork equipment, and it's compacted to form a firm base on which to apply the bituminous material,

Attorney Monteleone 59:43

and then in what? By contrast, what does blacktop material entail?

Expert Paving 59:50

Hot mix asphalt originates from an asphalt plant. It does contain some aggregate. But it's bound together, and is characterized by being an asphalt, or bituminous material that's impervious to water.

Attorney Monteleone 1:00:10

In other words, it's bound. It's, in essence, bound together. Bound together, it's placed hot and it's placed with specialized equipment. Now, did you hear testimony earlier regarding the inability to access asphalt plants in February.

Expert Paving 1:00:28

Yes,

Attorney Monteleone 1:00:31

what's, why is that? What's what's happening there?

Expert Paving 1:00:36

Maine has harsh winters, and asphalt plants really cannot run efficiently during those cold winter months, so they shut down.

Attorney Monteleone 1:00:45

So if and if it's shut down, what does that mean for access to blacktop materials?

Expert Paving 1:00:51

It's not available?

Andy Lord 1:01:00

No further questions.

Defendant Rinaldi 1:01:04

How you doing, ma'am. So, I mean, we all know well may been wrong, which is fine, but so, but base coat base course, I heard you say that distinction. Would it be fair to say that some people get those confused?

Expert Paving 1:01:31

No,

Defendant Rinaldi 1:01:32

even like, say someone who experienced like builders or realtors and stuff like that.

Expert Paving 1:01:36

I think builders in particular know the distinctions.

Defendant Rinaldi 1:01:41

Okay, so you don't think anybody is confused when it comes to any of those terms, because they kind of seem to be used interchangeably sometimes.

Expert Paving 1:01:49

Well, in terms of calling something blacktop, yeah, no, you say that's yeah. That's only one thing in my Yeah. So

Defendant Rinaldi 1:01:57

you did review the contract. Obviously correct. So you see below us as walkway that also says black top, yes, okay, which wasn't, in this case, done so when they say base. So, have you ever heard of aggregate call base coat?

Expert Paving 1:02:14

No,

Defendant Rinaldi 1:02:15

never in your experience.

Expert Paving 1:02:17

No.

Defendant Rinaldi 1:02:17

Do you think it's ever confused?

Expert Paving 1:02:21

It can be

Defendant Rinaldi 1:02:23

into as soon as your answer. I apologize. I did not mean to cut you off,

Expert Paving 1:02:29

and that's why we try hard to refer to aggregate or gravel as a course.

Defendant Rinaldi 1:02:36

And by tuning, I just looked it up. I don't I don't. You clearly know what you're doing. You're clearly an expert. I have no issues with that. I just figured, you know, I'd ask these questions. I have no further questions.

Justice Daniel Billings 1:02:49

Would you think it would be likely to be confused when the language used in the specs say paving, and then after paving, base code only do you think that'd be less likely to be confused for the base course?

Expert Paving 1:03:09

Paving? To me, in my experience, refers to a hot mix as well a bituminous material,

Justice Daniel Billings 1:03:19

and that would be more specific than just saying base coat, only saying paving before using the term base code would more likely be clear that you're talking about the intuitive material, that you're right.

Expert Paving 1:03:32

Yeah,

Justice Daniel Billings 1:03:32

thank you. Redirect

Attorney Monteleone 1:03:35

nothing further after, may this witness be finally excused.

Justice Daniel Billings 1:03:38

Yes. Thank you. Why don't we

PART 4 of 4

Justice Daniel Billings 0:00

Their council for the plaintiffs may call their next witness. The Plaintiff would like to call Drew Pierce

Attorney Monteleone 0:06

What brought you to to look to buy a house in Maine, in 2020,

Drew Pierce 0:44

I've been living on a cape most of my life, just looking for a change. I always love the area up here. And yeah, I just decided that I wanted to permanently move up there

Attorney Monteleone 0:57

How old are you currently?

Drew Pierce 0:58

I'm 35

Attorney Monteleone 0:59

and what do you do for a living?

Drew Pierce 1:01

I do welding and fabrication work.

Attorney Monteleone 1:05

And where do you currently live?

Drew Pierce 1:07

I live on Cape Cod

Attorney Monteleone 1:08

in other words, well, so what came of your effort to move to Maine?

Drew Pierce 1:16

What do you mean?

Attorney Monteleone 1:17

Well, did you have any success in relocating to Maine?

Drew Pierce 1:23

No,

Attorney Monteleone 1:25

why not.

Drew Pierce 1:25

Ummm at the time, after everything was said and done, everything for me and my whole world was kind of in shambles, as you know, from being out of work for so long and trying to move everything and get back, I just had to go back to the cape to try to get back to work, try to reestablish my life. I didn't have any more time to pause my life .

Attorney Monteleone 1:25

With that And if I can. I'd like to come, come back to that in a minute first I'd like to start looking at your effort to find a house back back in 2020, so how did you how did you come to hire Andy Lord

Drew Pierce 2:12

Andy, I ended up inquired about a few houses online, and Andy was the broker that was recommended through the website.

Attorney Monteleone 2:25

Did you ultimately hire Andy as your as your agent?

Drew Pierce 2:28

Yes,

Attorney Monteleone 2:33

how? How did you? How did you come to find the cape road property?

Drew Pierce 2:45

The Cape road property, originally, I just found it on a online search engines.

Attorney Monteleone 2:56

So was, was there a point in time, or what was the point in time that you became engaged in conversations about potentially buying that house?

Drew Pierce 3:11

When I started to communicate with Andy,

Attorney Monteleone 3:15

You tell me,

Drew Pierce 3:16

okay, I mean, I started, I started looking for property in Maine, I'd say some time in spring 2020, so And then by summertime, that's when I first started making trips up here to see things and, you know, check out the area a little more, find out exactly where I wanted to be, right?

Attorney Monteleone 3:33

And Did, did Andy have some understanding of of what you were looking for?

Drew Pierce 3:37

Yeah, I'd say, so I gave him, you know, kind of like a vague idea of what I was looking for, yeah, for him to potentially find some properties to check out, compare some stuff, and figure out exactly what I

Attorney Monteleone 3:50

so if I could refer you to exhibit one each on the On the third page and exhibit 1/3 page. Yeah. Okay. Okay. Now, did, did Andy bring this particular project, this, this rebuild that was happening at the Cape road property to your attention as as a purchase possibility?

Drew Pierce 4:17

I believe that I reached out to him originally, if I remember correctly, this was one of the first homes that I came across in my home search and I had inquired about it, you know, through the search engine, whether it was Zillow or realtor, one of those search engines. And that's how I came to know Andy was. He was the agent that they basically assigned, you know.

Attorney Monteleone 4:41

So then, in your interactions with Andy, did you come to understand that that this project was being presented as as a different, a different build plan, than than what, what you had seen previously listed?

Drew Pierce 4:57

I don't quite understand.

Attorney Monteleone 4:59

I. See, did you have the opportunity to see this rendering in Exhibit one, and as you were exploring your interest in putting in an offer at the Cape Road property,

Drew Pierce 5:16

Yes

Attorney Monteleone 5:16

did you have an opportunity to to meet with Mr. Rinaldi and then see what he was, what he was building.

Drew Pierce 5:25

Yes,

Attorney Monteleone 5:26

when did that happen?

Drew Pierce 5:28

I believe that would have been in August of 2021, when I went up there for the first time. Okay, um, it could have been a week or two after that. I vaguely remember, I know that I went up that one time, and then I went up a few weeks later. I don't recall if it was the first time that I met Rinaldi. I don't recall if it was the first time or the second time I went up.

Okay,

Attorney Monteleone 5:50

so when you were there, did you have an opportunity to to discuss in this Rinaldi about what he was what he was building,

Drew Pierce 5:58

yeah,

Attorney Monteleone 5:59

and was the house under construction at the time?

Drew Pierce 6:02

Yes,

Attorney Monteleone 6:04

how did Mr. Rinaldi present his his building plans? Do you he presented it exactly like this photo, okay, did he describe some of the the features and the amenities that he planned to build,

Drew Pierce 6:20

I believe so, yes, I mean, we talked about a lot of things, and, you know, my kind of gave him the the freedom, as far as you know, like, I'm not a builder, I'm not a construction worker. I work with metal. So I was like, Yeah, you know, I trust your judgment. Let's make this place Beautiful. Okay? And that was kind of where we went.

Attorney Monteleone 6:39

What did he tell you about his plans to develop this, this room above the garage.

Drew Pierce 6:46

He had told me that he was going to finish it

Attorney Monteleone 6:49

in what context can you tell me? Just elaborate upon that, that conversation that you had with him

Drew Pierce 6:54

. Yeah, he said that the bonus room above the garage he wanted to finish and do the same flooring and all that as that's the rest of the house. From what I understood, he told me his intentions with this home were to take photos of it, have it kind of be his model home for his new business.

Attorney Monteleone 7:14

Did at that time, did you perceive that what he was describing to you was was different than the build that he had originally listed for Sale.

Drew Pierce 7:26

No, I don't think it was different. Okay, I'm a little confused by that.

Attorney Monteleone 7:34

So in other words, did you perceive that the build that he was describing to you included four bedrooms instead of three bedrooms,

Drew Pierce 7:42

that's was I it was supposed to have the four bedrooms.

Attorney Monteleone 7:46

And were you aware that there was a time previously that he had contemplated a design that was only three bedrooms?

Drew Pierce 7:52

Yeah, saw the other the first, if you look on the page of the first spec sheet, everyone thought it was at three bedrooms and the house that I was buying was four bedrooms.

Attorney Monteleone 7:52

Okay, so with that, were you able to observe differences between what you had perceived as kind of the old version of the build and what Mr. Rinaldi was telling you he was actively building at that point in time, in August of 2020,

Drew Pierce 8:22

yeah, I mean, from the first one to the second one, there's clearly the gable on the roof is different. Space above that the porch.

Attorney Monteleone 8:32

Did Mr. Rinaldi flag those things for your attention, as you were with him, looking at the at the building under construction, as in, like, did he say that when he walked from the original spec sheet that this was, did he identify these features in terms of, like, what's happening about the garage, what's happening at the porch?

Drew Pierce 8:52

Yeah, did he?

Attorney Monteleone 8:56

Did he discuss some of the the other amenities that are outlined on exhibit, one such as, for example, the intent to put hardwood floors throughout.

Drew Pierce 9:05

Yep.

Attorney Monteleone 9:11

Did he discuss his intended kitchen design with you?

Drew Pierce 9:15

He did. He showed me some previous photos of projects to get worked on, and I really like the look of it. And once again, like I pretty much just gave him, like, the creative freedom, you know, I was impressed with his judgment, you know.

Attorney Monteleone 9:30

So what was your What was your understanding of Mr Rinaldi's Asking price?

Drew Pierce 9:39

He was asking 385 for the house, and I offered him exactly what he was asking for.

Attorney Monteleone 9:46

What was it that was it? Was there any discussion about what 385 represent? So do you want to strike that question ask a different way. Were you presented with the option to. Buy one of two designs, no or the ability to make substantive choices about you want this, this thing versus that thing. How was, how is it actually presented? Then, I mean, if it's not, what I'm trying to understand is, if it's not a choice, how was it presented to you? How was the home presented to me?

Drew Pierce 10:26

I mean, it was presented exactly as what's pictured right here.

Attorney Monteleone 10:33

So when you put in an offer for this one, always asking price, what did you understand that you were buying,

Drew Pierce 10:42

I thought I was buying this four bedroom from these second spec sheet

Attorney Monteleone 10:54

as and is that the same? Is that what Mr. Rinaldi described to you is that what you understood that exhibit one had outline is that? What you understood that the summary in Exhibit one outline,

Drew Pierce 11:12

Yeah ,

Attorney Monteleone 11:12

what did you do? Did you did you direct your agent to prepare an offer?

Drew Pierce 11:17

I did?

Attorney Monteleone 11:19

What happened next?

Drew Pierce 11:23

I just made the offer on the house and it was accepted.

Attorney Monteleone 11:31

So can I ask you umm can I refer you to exhibit two now on the buyer's line includes Janice Lariviere, who's Janice.

Drew Pierce 11:51

Janice is my mother

Attorney Monteleone 11:52

and and why? Why is your your mother on the on the contract? Why was that necessary?

Drew Pierce 12:01

I'm not married. I, you know, didn't, I don't make enough, didn't make enough money to to get qualified for the mortgage. Independently, independently, yes,

Attorney Monteleone 12:17

Now in the course of, in the course of preparing an offer or meeting with with Mr Rinaldi, did you ever direct Mr Rinaldi that you would prefer the old design something different than what he explained he was he was intending to build,

Drew Pierce 12:40

no

Attorney Monteleone 12:42

What was your, what was your, your understanding, what was happening with the with the spec sheet that was included in the exhibit two contract Originally,

Drew Pierce 12:59

one more time,

Attorney Monteleone 13:00

what was your understanding of of the spec sheet that was included? In other words, what, what role it played in, in the the broader in the building plans, given that Mr. Rinaldi had expressed his plans to build something different,

Drew Pierce 13:20

I don't really know how to answer that. I'm sorry,

Defendant Rinaldi 13:30

after you submitted your offer, did Mr. Rinaldi make a make a counteroffer?

Drew Pierce 13:35

No.

Attorney Monteleone 13:36

Did Mr. Rinaldi accept your offer.

Drew Pierce 13:45

Yes

Attorney Monteleone 13:45

So what happened? What happened next, after, after those, those papers were signed, was there, was there effort to clarify the scope of the work?

Drew Pierce 14:01

I believe that we requested the new spec sheet, just so we would have it on record for and just so I could see it. And, yeah, I mean, I was expecting the four bedroom.

Attorney Monteleone 14:17

And then when you ultimately were were provided the corrected spec sheet in Exhibit four. Did you have the chance to review that spec sheet?

Drew Pierce 14:29

Yeah ,

Attorney Monteleone 14:30

and was, how did, how did exhibit four compare with your expectations of what, what you were buying?

Drew Pierce 14:39

Like it was exhibit four, exactly what I was expecting. Yes, yeah, yeah.

Attorney Monteleone 14:46

And how did this the outline of what you see in Exhibit four, relate to what you observed at the property.

Drew Pierce 14:54

It was pretty spot on. I would say it was the same house.

Attorney Monteleone 14:58

Now was, was there a point in time in the course of as you communicate with Mr. Rinaldi about his building plans? What if he expressed to you in terms of his desire to have some autonomy or discretion in in the build, as far as, like him, you know, making the call for a certain thing, is that what you mean? Well, I think what I'm, I'm trying to understand is that, was there some understanding that, that Mr. Rinaldi would have some some discretion to choose things like finishes and materials.

Drew Pierce 15:42

Yeah,

Attorney Monteleone 15:44

why was that?

Drew Pierce 15:47

I gave him kind of the freedom to do it, because this is what he does, and I thought that he would be able to come up with something better than what I would be able to come up with. I just trusted his judgment as far as finishes, just to make me do all

Attorney Monteleone 16:02

So, for example, if I might refer you to the second page in Exhibit four, for example, there is there's provisions, such as, with reference to the garage door, where there's a note that buyer will have the choice of finish and style of choice, right? So when we talk about what Mr. Rinaldi had had discretion to do, did you ultimately make the choice of what garage door style you were going to put on this house?

Drew Pierce 16:34

Not that I recall,

Attorney Monteleone 16:35

was that the type of decision that, although it, although many buyers make that you would defer to Mr. Rinaldi,

Drew Pierce 16:44

Yeah

Attorney Monteleone 16:51

you spoke to this minute ago, but I'd like to clarify why. Why do you agree to give Mr. Rinaldi that kind of that that discretion in terms of the construction as far as making, like, the decisions,

Drew Pierce 17:06

like I said, it's just, you know, it's not my area of expertise. I just thought that somebody who was still in that area, and that's what they did, I thought that they could come up with something that they liked it just because, simply, it's just not wha I do

Attorney Monteleone 17:21

in the course of the discussion that you had with Mr. Rinaldi about him having discretion to choose finishes, did Mr. Rinaldi ever express expectation that his choices might change the price. In other words, if you chose higher end materials that cost more, he would come to you looking to to make up the difference in price. So what was your understanding about how Mr. Rinaldi's choices about the build affected the purchase price that you had agreed to pay?

Drew Pierce 17:59

I didn't think it would affect my the purchase price of what I agreed to pay, just because we had already agreed upon that, you know, and I gave him the freedom to do what he wanted, whether, you know, he was using something very expensive and high end, or he was using something else. You know, that was his responsibility

Attorney Monteleone 18:18

So, as you know, after you're under contract, did you request any changes? I know you described having a, you know, giving him a lot of latitude, but did you, in fact, circle back and request changes?

Drew Pierce 18:31

No,

Attorney Monteleone 18:33

why not.

Drew Pierce 18:35

I don't really think there was much that I wanted to change.

Attorney Monteleone 18:38

I now you were first, first scheduled to to close in in November. What what happened?

Drew Pierce 18:54

It wasn't ready.

Attorney Monteleone 18:55

What did that mean for you?

Drew Pierce 18:59

I mean, I had already planned on to be moving up for November. So everything was just kind of at a standstill, just kind of waiting around to see, see what was going on.

Attorney Monteleone 19:12

Were you kind of pestering, or giving a hard time about how this needs to get

Drew Pierce 19:20

I'm a very, very patient, understanding person. I think I was more than agreeable with everything. I don't really think I ever gave him a hard time. Really.

Attorney Monteleone 19:36

Were there issues at that point in time, did you have issues with your expiring mortgage rate?

Drew Pierce 19:43

I did

Attorney Monteleone 19:45

what was going on there?

Drew Pierce 19:49

I believe when I got pre approved for my mortgage, you know, it was only good for X amount of time, whether that be a month or I'm not exactly sure how to. How that whole process goes, but I know that I was approved for X amount of my interest, and then after overtime, it was going to expire,

Attorney Monteleone 20:08

okay, and and what would that mean for, ultimately, the cost of your your loan,

Drew Pierce 20:17

it would make my monthly payments go up, but my loan cost more interest.

Attorney Monteleone 20:23

So did the bank provide you an option, which to what, to essentially preserve the rate that they had, that they had set in what, in August?

Drew Pierce 20:34

Yeah,

Attorney Monteleone 20:36

and what was that

Drew Pierce 20:38

a rate lock

Attorney Monteleone 20:44

How did, how was that strike that what is I mean, did that require a payment the rate lock?

Drew Pierce 20:54

I don't believe so.

Attorney Monteleone 20:56

Did it require a payment at the time that you closed on on the loan?

Drew Pierce 21:00

Did it require a payment like at the time that they offered me the rate lock

Attorney Monteleone 21:04

at the time. In other words, did, did some payment have to be made in order to for that rate lock to be possible?

Drew Pierce 21:12

I mean, I had to pay them for it, but I don't believe I had to give them any upfront payment. I don't believe so

Attorney Monteleone 21:18

understood. So who ultimately was asked to make that payment, and did, did Mr. Rinaldi agree to make that that payment?

Drew Pierce 21:31

Yes.

Attorney Monteleone 21:33

What was your understanding of why?

Drew Pierce 21:35

My understanding of why was just because we were so far behind, we were behind schedule. So, you know, it was kind of, I was kind of at the mercy of, you know, him finishing the project so that I could keep my interest rate. So he agreed that he would cover the cost of that now

Attorney Monteleone 21:57

I'd like to turn to discuss the possession prior to closing addendum, what was going on that that necessitated your taking some possession of the property in order to store property, your belongings there.

Drew Pierce 22:13

I mean, I had had my my whole current residence had been packed up since November, since the original closing. And I, you know, it was really, really running out of time at that point, when it came to march and I had to get my stuff somewhere, I was a lot that was in a shipping cloth on my property. So I was paying, paying daily, half the shipping cost on my property, full of my stuff. I just ran out.

Attorney Monteleone 22:47

If I can refer you to exhibit eight, eight, what was, what was your understanding of the terms of the possession prior to closing addendum?

Drew Pierce 23:06

I mean, I thought that, you know, I had free reign to come and go as I pleased from the property there and put my things there, stay there if need be. That was my understanding.

Attorney Monteleone 23:18

And did did that con contract provision include any, any payment of rent.

Drew Pierce 23:26

No,

Attorney Monteleone 23:28

was, what was your understanding as to, as to why payment of rent wasn't included?

Drew Pierce 23:34

I just kind of assumed that it was just because we were so far behind and was trying to get into a home, and I was already buying so I didn't, honestly didn't at the time, that never really even crossed my mind, as far as paying it daily or weekly rent or whatever, what have you on it?

Attorney Monteleone 23:58

And did you, in fact, move, move your belongings. Move belongings into the property.

Drew Pierce 24:04

Yes

Attorney Monteleone 24:05

And when did that happen?

Drew Pierce 24:07

I would say it started right around when the ownership prior to closing addendum was filed. I would say it started right around that time, probably over the next couple of weeks, I believe it was taken at one trip or so a week up there to drop some stuff off. And then I had the pod delivered there. So I moved everything out of there into the garage

Attorney Monteleone 24:30

I'd like to turn and discuss the events that were surrounding Closing, when was when was closing? Schedule, originally, ultimately, ultimately,

Drew Pierce 24:49

I believe it was March 4. March 5. I know it's in here somewhere.

Attorney Monteleone 24:53

So when did you first learn that? Mr. Rinaldi had had objections to closing, to falling through on the sale

Drew Pierce 25:08

the morning of closing.

Attorney Monteleone 25:13

How did you respond to that?

Drew Pierce 25:16

I was obviously upset. I didn't really know what to do. It was kind of kind of in shock, but not entirely sure.

Attorney Monteleone 25:27

Now, did, did you talk with your agent about trying to find, trying to see if there was some concessions, like some way to kind of help? Yeah, help satisfy him. What did those entail

Drew Pierce 25:40

we were just, I mean, we were all kind of trying to bend over backwards to make it happen. As far as I know that Andy and they had waived some, some of their commission and whatnot, they were trying to do everything they could to get me into the house

Attorney Monteleone 25:59

Now were you doing those things? I mean, were those, were those kind of concessions happening because everyone recognized that that Rinaldi, Mr. Rinaldi was was, was correct about his objections

Drew Pierce 26:14

Say that again,

Attorney Monteleone 26:15

were those concessions happening because everyone agreed that you were wrong and Mr. Rinaldi was right.

Drew Pierce 26:21

No.

Attorney Monteleone 26:22

Why did they happen?

Drew Pierce 26:23

They happened because I think everyone thought I was right and he was wrong I can't say I was right, but I think you understand what I'm trying to say

Attorney Monteleone 26:35

what was happening with that, with the housing market at the time. I mean, did I can hold on, on that question, one a second, and ask you a different question. Have you discussed with with Andy, what happens if your unable to close on this property? In other words, what it what it entails to try to find another property on the market?

Drew Pierce 26:57

Not that I recall all right,

Attorney Monteleone 27:00

what was your understanding of what was happening with with the property market at the time

Drew Pierce 27:04

things were going up,

Attorney Monteleone 27:05

so did? Was there? Did? Was there concern about the ability to afford the same the same thing, if you had to go back under a contract with a new property? I

Drew Pierce 27:20

yeah,

Attorney Monteleone 27:30

Now having had the opportunity to review the materials in this case, what's, what's your, what's your understanding about what Mr. Rinaldi's real objections to closing were,

Drew Pierce 27:49

again, I'm not 100% sure. There seemed to be a lot of different things going on at the time. Everything was kind of all over the place, very chaotic.

Attorney Monteleone 27:57

I was was anything brought to your attention regarding the Mr Rinaldi's sale proceeds,

Drew Pierce 28:12

as far as what he was going to be getting off the as far as what he was going to be profiting off of the property,

Attorney Monteleone 28:23

correct?

Drew Pierce 28:25

I don't recall if there was an exact figure given to me,

Attorney Monteleone 28:31

but you were, were you aware that he had concerns about how little he was ultimately set to receive?

Drew Pierce 28:37

Yeah ,

Attorney Monteleone 28:38

and what was your understanding as as to why that was happening, why he was in a situation where the net proceeds were smaller than he had hoped.

Drew Pierce 28:50

I mean, I'm assuming just, you know, he was behind. Spent too much money building the place poor management or time management

Attorney Monteleone 29:02

Now were issues, or any issues regarding objections to driveway paving brought to your attention.

Drew Pierce 29:12

Yes

Attorney Monteleone 29:13

and what was done to address those

Drew Pierce 29:18

he has requested to lift the escrow funds, and he and Matt were trying to make up the money difference so that it kind of wash itself out.

Attorney Monteleone 29:28

Did you authorize them to try and go ahead and see if they could remove that escrow? If it was possible?

Drew Pierce 29:36

Yeah, I'd say so. I mean, I just at that point, I just really wanted the house. I just said, you know, I was kind of willing to do anything just just to be done with

Attorney Monteleone 29:45

you've been waiting a few months. At that point,

Drew Pierce 29:48

I've been waiting since November, since August actually.

Attorney Monteleone 29:59

What came with that effort to remove move the escrow.

Drew Pierce 30:05

I mean, to my knowledge, it seemed like they were kind of giving him everything he was asking for, but it still wasn't enough.

Attorney Monteleone 30:14

What do you mean? What do you mean by that?

Drew Pierce 30:15

where from he, I think he was requesting X amount of dollars, and that's they were trying to get to that bigger form,

Attorney Monteleone 30:30

essentially, well like basically off, offsetting what they couldn't happen in the escrow with other kinds of of credits.

Drew Pierce 30:38

Correct

Attorney Monteleone 30:46

the afternoon of March 5. Where were you?

Drew Pierce 30:54

The afternoon of March 5, that was for closing. I was at the title office, or at the real estate office with the title

Attorney Monteleone 31:06

and at that point in time when you went to the title office, did you have the understanding that everything had been Mr. Rinaldi all these concerns had been addressed, and we're able to go forward and close

Drew Pierce 31:18

I believe so yeah

Attorney Monteleone 31:22

Well, ultimately happened there?

Drew Pierce 31:24

He didn't show up

Attorney Monteleone 31:28

What efforts are you aware that were made to try and bring him out?

Drew Pierce 31:33

I think just about everything, I mean, everybody was calling him and trying to give him what he what he needed, what he wanted to get to The table, and it just didn't happen.

Attorney Monteleone 31:55

After that. You still had, was that was that on the on the last day of the contract,

Drew Pierce 32:10

I believe so it was either the fourth or the fifth. I don't remember exactly what day it was. I believe that last day of the contract was the fifth, if I remember correctly,

Attorney Monteleone 32:22

after Mr. Rinaldi had refused to come to closing, what did he express to you about you being at at the property where you had belongings there?

Drew Pierce 32:35

I had zero contact with him directly after he refused to come to closing,

Attorney Monteleone 32:40

but he had reiterated to Andy not to come to the property after I after everything fell through, alright? I So was that possible for me to not go to the property, to not go to the property, to stay away from property.

Drew Pierce 33:01

Absolutely not

Attorney Monteleone 33:02

Why not

Drew Pierce 33:03

everything I own is on that property,

Attorney Monteleone 33:06

and why not just leave it there?

Drew Pierce 33:22

Ah, couldn't leave it there. I'm sorry. I'm so emotional. I couldn't leave it there.

Attorney Monteleone 33:40

Had had and Mr. Rinaldi threatened you that you'd be you'd be trespassing,

Drew Pierce 33:45

yeah

Attorney Monteleone 33:45

, if you go back.

Drew Pierce 33:46

Yeah

Attorney Monteleone 33:49

So, so what did you do?

Drew Pierce 33:52

I went back to get my belongings. I went and got a box truck. Had to get all my stuff out of there.

Attorney Monteleone 34:05

And and when you're at the property trying to collect your stuff, and in response to Mr Rinaldi, what did, what happened?

Drew Pierce 34:15

He called the police

Attorney Monteleone 34:17

Did the police come?

Drew Pierce 34:18

Yeah

Attorney Monteleone 34:21

How did, how did you perceive the the role of the police being there?

Drew Pierce 34:33

I felt pretty threatened. I felt like I was, you know, being pushed away from something, my property, all my belongings. It was terrible.

Attorney Monteleone 34:47

Now did you express to to the police that you had you had a right to be there?

Drew Pierce 34:53

Yeah.

Attorney Monteleone 34:54

And what did and and what did they say in response,

Drew Pierce 34:57

they said, I. They, I mean, they didn't really, I think they kind of thought it was more of a civil thing. I don't think they wanted to get into it too much. They just told me that.

Attorney Monteleone 35:17

And did you? Did you, in fact, go?

Drew Pierce 35:23

I did

Attorney Monteleone 35:26

you put up in opposition to the law enforcement directive for you to leave

Drew Pierce 35:31

as far as like leaving? Right there, I told him, I'm not leaving without my property

Attorney Monteleone 35:39

Did result in, in, in an issue in other what, what happened with the with the interaction, how did, how did that? How did the interaction with the police, essentially, kind of come to an end?

Drew Pierce 35:49

I finished. I mean, it came to an end. I just finished loading my stuff. They stayed there while I finished loading my stuff

Attorney Monteleone 35:56

Essentially, they they stayed just kind of monitoring. You. The time, and what was your understanding as to why they were there?

Drew Pierce 36:11

I really, I'm not sure. I mean, Mr. Rinaldi had called out they were there because of him

Attorney Monteleone 36:21

Like to turn to look at to discuss about what happened after the closing fell through. Did you ultimately retain a lawyer?

Drew Pierce 36:33

Yeah,

Attorney Monteleone 36:34

and how long after the closing had fallen through, did you? Did you retain a lawyer?

Drew Pierce 36:41

Within a few days

Attorney Monteleone 36:44

Now are you aware of any correspondence being sent on your behalf? Commission Rinaldi and inept an attempt to try and resolve the contract dispute

Drew Pierce 36:55

from my lawyer?

Attorney Monteleone 36:57

Yes. Could I refer you to exhibit 21 what is exhibit 21

Drew Pierce 37:15

exhibit 21 is a breach of contract for purchase and sale of Raymond Cape row.

Attorney Monteleone 37:24

So What was the purpose of of this communication on your behalf? Mr. Rinaldi, about about a week after the closing had had fallen through,

Drew Pierce 37:45

let him know that he had breached our contract.

Attorney Monteleone 37:50

What efforts were being made to try and put Humpty, Dumpty back together again, as they say,

Drew Pierce 37:59

as far as after

Attorney Monteleone 38:01

, yeah, I mean, at this, at this stage where they're where they're continuing efforts to try and find some

Drew Pierce 38:09

To mediate

Attorney Monteleone 38:10

mediator resolution and how are those? How are those perceived?

Drew Pierce 38:18

He just refused to mediate them.

Attorney Monteleone 38:24

Is exhibit 21 a true copy of the correspondence that was sent on your behalf. Did you review?

Drew Pierce 38:34

The best of my knowledge? Yes,

Attorney Monteleone 38:37

move for admission of plaintiffs. 21

Justice Daniel Billings 38:38

Any objection.

Defendant Rinaldi 38:42

Is it 19 or 21 you're talking about the letter

Attorney Monteleone 38:46

deposition 19 and now it's plaintiff's 21

Defendant Rinaldi 38:49

No, no, no objection.

Justice Daniel Billings 38:51

It's admittd ed

Attorney Monteleone 38:51

in I can refer you to exhibit 22 what was, what was Mr. Rinaldi's response to to your effort through Council, the two try and sit down at mediation and resolve the contractus view.

Drew Pierce 39:30

He said he will not be participating in mediation.

Attorney Monteleone 39:35

Why not?

Drew Pierce 39:42

He believed that the contract had been terminated,

Attorney Monteleone 39:46

all right, and did you have the opportunity to to review this? The email that Mr. Rinaldi sent to go counsel,

Drew Pierce 39:58

I believe I did.

Attorney Monteleone 40:02

Is a true copy of the email my knowledge,

Drew Pierce 40:05

yes,

Attorney Monteleone 40:07

move for admission of plaintiffs. 22 any objection,

Defendant Rinaldi 40:11

I just there's a response letter from me, and there's, I think, more email responses. I would just like the whole thing of in its entirety, to be there.

Justice Daniel Billings 40:20

It's not a proper objection. 2022. Is admitted,

Defendant Rinaldi 40:23

okay?

Attorney Monteleone 40:30

After Mr. Rinaldi had refused to mediate, I yeah, what happened? What happened to the the property next after he refused to mediate, yeah, he what happened with the house?

Drew Pierce 40:52

He put it under contract with somebody else.

Attorney Monteleone 40:55

So also, are you aware whether he relisted it?

Drew Pierce 40:59

I'm not. I don't know the specifics of that if he relisted it, I'm assuming so,

Attorney Monteleone 41:05

but I know that you put it under contract, and are to have to acknowledge of of the contract price that Mr. Rinaldi ultimately put the house under contract for.

Drew Pierce 41:17

To the best of my knowledge, I believe it was 100,000 more.

Attorney Monteleone 41:26

What was your understanding of how Mr. Rinaldi is putting the sorry that question following Mr. Rinaldi's refusal to mediate and contracting with with another party , with another party to sell it to someone else, what did what did you cause to happen next?

Drew Pierce 41:53

Can you repeat that one

Attorney Monteleone 41:54

after Mr Rinaldi had, had put the property under contract, had refused to mediate with you. We What did you cause to happen next?

Drew Pierce 42:06

I entered the suit against it.

Attorney Monteleone 42:10

You initiated this lawsuit.

Drew Pierce 42:11

Yes,

Attorney Monteleone 42:16

when it became clear that Mr Rinaldi was was pursuing, selling the house to someone else, did you venture to look at purchasing other property in Maine?

Drew Pierce 42:29

I had looked, I didn't, I mean, you know, looking on my computer and whatnot, but there was nothing, you know, there was nothing for me to get at that point. I mean, there's, there's, certainly, there's something on the market, but

Attorney Monteleone 42:42

what? What was going on with what you're seeing on the on the market that affected your ability to buy a house.

Drew Pierce 42:50

The pricing had gone up, the interest rates had gone up. It just wasn't, wasn't really attainable at that point.

Attorney Monteleone 42:59

Were you able to buy. Do you have any perception about your ability to buy something somewhat similar to the house that you would contract with Mr. Rinaldi for elsewhere on the market for something in the same price range,

Drew Pierce 43:19

I don't think I could find something.

Attorney Monteleone 43:23

How much time did you spend looking after this? One fell through.

Drew Pierce 43:28

Yeah. I mean, I had been looking continuously after that. I just started. You know, there wasn't much available. I was a bit discouraged.

Attorney Monteleone 43:40

Was there a point in time that you did you called off the search?

Drew Pierce 43:48

Yeah,

Attorney Monteleone 43:49

when was that?

Drew Pierce 43:51

It's a probably within a couple months of this one.

Attorney Monteleone 43:59

And to any knowledge of how real estate prices have have evolved since then, since spring of 2021

Drew Pierce 44:09

Yeah, they've continued to climb.

Attorney Monteleone 44:16

Looking at it broadly, how has this experience affected you?

Drew Pierce 44:21

Oh, man. Oh. Man, its been terrible. It's been really hard. I apologize getting emotional. Spent four years in the making here. It was really tough. You know, I stopped working my girlfriend and just to go right back to where we started. I'm not sure if I can say, I don't know. I. Apologize,

Attorney Monteleone 45:03

if I can follow up. Were there changes in your effort to to after you went under contract and making plans to relocate to Maine? Were there changes that you made in your life that essentially changed your situation?

Drew Pierce 45:26

Can you repeat that one? ,

Attorney Monteleone 45:29

when, when you had embarked on the plan to move to Maine, yep. Did you make changes that changed your your professional situation or your home situation.

Drew Pierce 45:42

Yes,

Attorney Monteleone 45:43

can, can you elaborate on on those changes?

Drew Pierce 45:46

Yeah. I mean, I just had my own small business. I shut that down, sold off my equipment and to try to come up here the house I was living in, I was giving that up. Yeah, I was kind of giving up everything. Oh,

Attorney Monteleone 46:08

and was, is your fiance joining you in this, in this adventure?

Drew Pierce 46:15

Yes,

Attorney Monteleone 46:15

and ohow did she prepare for the change.

Drew Pierce 46:23

She quit her job to come up here with me and kind of the same, prepared pretty much the same way I did. She left her job. I thought so.

Attorney Monteleone 46:40

Why wasn't it as as easy as simply going back you came from there? Why can't you just go back and pick up where you left off?

Drew Pierce 46:49

I mean, things had changed at that point. I said I had already given up my my shop space, I had given clients equipment. It wasn't as easy as just showing back up and going back to work. I didn't have somebody to show back up to go back.

Attorney Monteleone 47:08

How is has? How do you characterize where you've been as a result of of this experience. What was this kind of a false start? If you will

Drew Pierce 47:26

repeat the question,

Attorney Monteleone 47:27

how do you how would you characterize your your experience? Have you been able to to you felt stuck?

Drew Pierce 47:36

Yeah.

Attorney Monteleone 47:37

Can you elaborate on that?

Drew Pierce 47:43

I felt like it just put me so many steps back that it was and I'm just trying, still trying, to pick up the pieces. I'm kind of stuck where I'm at

Attorney Monteleone 48:00

no further Questions.

Drew Pierce 48:05

I apologize for emotional

Defendant Rinaldi 48:08

well first, thank you, sir. I appreciate it. I appreciate you answering honestly, I really do, and I'm sorry you've gone through this. I feel the same way as you go. So I think it sucks for both of us, and I really wish you the best I honestly do. I say that from the bottom my heart. Yeah. So anyways, so a lot of it seems like, I mean, you do come to house off in terms of end, but initially you were only there maybe once a month. Let's say something like that, once every maybe it was just fair to say that Andy was kind of, you know, negotiate. He was there a lot, you know what I mean. So lot of the negotiations were more between him, not me. And you would that be fair to say?

Drew Pierce 49:19

Yeah,

Defendant Rinaldi 49:20

I okay. Now the rate lock, when you said, I, I agreed to pay it. Now that's something Andy probably told you. I'm sorry. No, your good the rate lock when you said it's something, I agreed to pay it. I'm guessing Andy had relayed that to you correct

Drew Pierce 49:43

to my knowledge, I would say, so yeah, I honestly don't know. I haven't spent a while,

Defendant Rinaldi 49:55

but you were obviously, I mean, I think early on, I think everyone. On me that I was building it pretty much alone. I mean, that was, I don't know if you knew right away, but I know that it was pretty apparent pretty quick. So is that fair to say as well?

Drew Pierce 50:10

Yes

Defendant Rinaldi 50:12

When the day you did come to the house, first time we talked and we were talking about different things, which that's everything you said up here. I mean, pretty much is the truth. I appreciate that. I really do. But at that point we hadn't discussed price. That was all kind of hypothetical, like, because we were just talking. It was a good conversation. You guys are good people and so but at that point, you hadn't put an offer. No one has price been talked about? Correct?

Drew Pierce 50:40

I hadn't put in an offer, yeah. And

Defendant Rinaldi 50:42

we didn't talk about anything like price wise or stuff like that, because really, it was kind of a it wasn't on the market. So it was kind of like you guys had kind of exclusive, you know, your only person put an offer because I didn't really want to relist it. So, so yeah, but we did talk, and, you know, everything we said is true, and you mentioned that you kind of gave me free reign, which is the truth. So that day, I said to you, I want to do what I can. But, you know, obviously budget is, you know. So after that, it started to change with Andy. What was your conversations with him like when he was, you know, I had conversations with him, and he'd be tough sometimes. I mean, he's good at what he does, yeah, and he's trying to negotiate the best price for you. I get that. But at the same rate, what were your conversations with him about? Like, did you ever say I definitely want that fourth bedroom? Or was it something where, like, if you can't afford it, that's fine, or was there any conversations about that fourth bedroom with him?

Drew Pierce 51:39

Not that I recall.

Defendant Rinaldi 51:40

So he's kind of like he was, and he was, I mean, him, don't say, I bet he's a good realtor, so I but, you know, I'm sure he was just negotiating about trying to get you the best deal possible. So, but October and you are pretty much just in mass for the most part, doing your thing, and, you know, let him, kind of, you know, check on things while you're in touch and base with you and stuff. Okay, let's see. Do you ever see that highly unlikely that I'll be able to finish it that fast by myself? I mean, it's, I feel like it's kind of, you know, obviously, especially with someone like him and Matt, with so much experience, it's kind of obvious that wasn't going to get done by November. So did he ever bring that out there, you know?

Drew Pierce 52:24

I mean, I don't recall specifically. I mean, I it could have been said in passing, no,

Defendant Rinaldi 52:28

I get you. Yeah, no. Okay, down the fifth. No, I apologize, honestly, it was a long, long fifth. It was crazy. I think we were all emotional, all retired, all stressed out, you know, and I was going to my son's baseball practice. I was coaching you guys came flying by with whole troop of you, so I just called the sheriff and said, you know, can you just make sure everything's okay? When we got there, you already been removing your things correct?

Drew Pierce 53:03

I just got there. Oh, really,

Defendant Rinaldi 53:05

so you guys just, it came that fast. They We're up there. We went down there. Just, yeah, but your intentions to go there was to get your stuff Correct,

Drew Pierce 53:14

yes

Defendant Rinaldi 53:15

because you already had moving truck prior, right?

Drew Pierce 53:17

I got the moving truck after you didn't show up close, okay, scrambled to get that at the last

Defendant Rinaldi 53:23

Okay, yeah, I'll take your word for it. I mean, Andy did say you got to move truck in the text earlier that day. But I'll take the word for it. I mean, sorry, I after the closing fell through, you knew I had a loan, and obviously I was under the gun that way. I need to get it sold to pay the loan, correct

Drew Pierce 53:49

I know Lincoln capital.

Defendant Rinaldi 53:51

So you guys sent a letter, I think a week later, March 12, so a week later, exactly after that, I think we emailed back and forth, but there was a delay. Did you guys, did you talk with James about, like, maybe any urgency, knowing that I'm under the gun, knowing I have to, you know, was there any discussions about trying to, you know, trying to make this, fix this quick, versus between you and I?

Drew Pierce 54:17

Yes,

Defendant Rinaldi 54:17

you and I have not spoken.

Drew Pierce 54:19

No,

Defendant Rinaldi 54:19

it makes sense. No, I know, I know, but I'm saying with James, like saying, hey, you know, knowing that I am under the gun to get this I gotta get this thing, if I must tell you, I gotta get it sold. So you guys have any discussions about the urgency or anything like that?

Drew Pierce 54:31

Not that I recall. Okay, I'm not entirely sure.

Defendant Rinaldi 54:34

No, I got you, um, obviously on the we've discussed this deposition and on the fifth, you mean, you weren't fully they weren't. You weren't fully informed by the realtors of what actually was going on fully. I mean, it seemed like they kind of, I don't know why, but it seemed like they just told you that I wanted more money, and didn't really get into too much detail. Is that correct? Or could you. Elaborate on that.

Drew Pierce 55:00

I mean, at that time, there's a lot going on. Yeah, I really don't have a straightforward answer.

Defendant Rinaldi 55:09

That's fine.

Drew Pierce 55:10

Everything was kind of old.

Defendant Rinaldi 55:11

I totally get it, and I do, I do. I feel free, man, I really do a lot. I mean, I was sleeping in my van, so I feel it. It was a lot I think we both got screwed on that one. So on March 4, man, I just So prior to March 4, Matt was trying to get money for me, and you guys were talking to the bank about reducing RMS. Was there any discussions about why that was happening? Like, were they saying because I wanted more money? Did they say the basis? Because that was before the painting paving came out,

Drew Pierce 55:45

not that I recall.

Defendant Rinaldi 55:47

So you might not even, you might not even have told you what he was doing with the RMS thing.

Drew Pierce 55:52

It doesn't sound familiar, CA

Defendant Rinaldi 55:53

okay. Now the fourth after Matt had compensated some I demanded that, you know, pay me painting. He said he called you guys. He didn't say called Andy he said he called you guys. Did he call you guys on the fourth Matt?

Drew Pierce 56:11

Matt, yeah, I believe I spoke with him, yeah. And did he through this whole entire process? I only spoke with Matt. I believe that one that one day, yeah, was very brief, yeah, and he was saying, I was memory, sorry, any interaction with him at all? Okay, very, very brief, yeah,

Defendant Rinaldi 56:29

he wasn't really involved at all. I mean, he was, it was Andy, really, so Matt wasn't. Do you remember what he was saying, or what I was demanding, or anything along those lines?

Drew Pierce 56:37

No,

Defendant Rinaldi 56:39

okay, all right, so he called me back saying that they're refusing to remove it. That was probably something he said, not something that you actually said,

Drew Pierce 56:49

Yeah, I mean, whatever he had, you know, yeah, said to you, I have a clue.

Defendant Rinaldi 56:53

Okay, no, I get it. I it now I think we discussed in your deposition, you got you obviously wear that like at Home Depot, you had to wait in line for like an hour just to get into place at that point because the covid. I mean, I don't know it's been a while, but that was when you had to wait, wear a mask and wear weight in line to get in everywhere. It was just nuts. I mean, you obviously, I mean, I think we discussed in the deposition, but I don't know if you remember us having to deal with that at that time,

Drew Pierce 57:43

yeah,

Defendant Rinaldi 57:44

so, I mean, it kind of made sense that I was having a struggle finishing it on time, given the lack of labor

Drew Pierce 57:50

objection that's going no, not a question, okay?

Justice Daniel Billings 57:56

Objection system, yep.

Defendant Rinaldi 57:58

Would it be fair to Andy ever discussed with you, like, you know, all the factors going on why it would be difficult for me to be able to finish it? I get that you had made plans and things got delayed. But did Andy ever say to you, hey, you know, with covid and everything, this might take a lot longer than you know, we're hoping,

Drew Pierce 58:22

I mean, I don't specifically remember a time saying that, but, I mean, it's was kind of at the time, was almost common sense thing.

Defendant Rinaldi 58:30

Yeah. I mean, you look around, what was going on. No. I mean, everyone knew that things were delayed. Yeah. I now, were you aware of March 5 meeting between the bank Matt and I? Were you aware of that meeting that was taking place?

Drew Pierce 59:00

Not that I recall. I know there was things going on.

Defendant Rinaldi 59:04

Yeah, at one point, Matt said he's leaving to call you about escrow. Do you remember getting called from him or him calling Andy On that day,

Drew Pierce 59:15

like I said, the only time I recall speaking with members that one guy on face to face.

Defendant Rinaldi 59:20

Okay, so him is saying that I talk like nevermind I want to go there. Did you submit your purchase and sales exhibit the purchase agreement? I just want to ask questions about that, and then you're good. After March 5, when I go right on March 12, I responded with a letter that wasn't. Discuss when James was up here. Do you remember my response to that letter, or what I was basically my position at that point?

Drew Pierce 1:00:06

Your response to the initial letter from you guys? Yes, I believe it's right in front of me right here. Is that? Is it really?

Defendant Rinaldi 1:00:20

Yeah, so, I mean, you remember my position, because it you weren't a question. I just refused to mediate. Or, do you know if there was a reason why I refused to mediate?

Drew Pierce 1:00:30

No, I just, you know, it says right here that you would not be participating in mediation. Oh, the email,

Defendant Rinaldi 1:00:35

so there was an actual letter sent. Did you ever see that letter?

Drew Pierce 1:00:40

I probably did, yeah,

Defendant Rinaldi 1:00:41

it's been a while. I know I don't think it was submitted with it, so it's okay. I'm gonna just keep it moving the purchase and sale. There was an option to inspect. I believe you guys waived your right to inspection.

Attorney Monteleone 1:00:59

Objection. Relevance.

Drew Pierce 1:01:03

Okay, I'll keep going

Justice Daniel Billings 1:01:05

Jackson . Sustain you

Defendant Rinaldi 1:01:21

aware that work was done after March 5 to induce a higher sale price, or anything along those lines?

Drew Pierce 1:01:29

I not really know. Okay, at that point, you know our relationship was over at that point.

Defendant Rinaldi 1:01:36

Yeah, I now the sheriff thing the on March 4, I sent the message because it was a crazy day saying that. You know, Paul, Sheriff, Attorney showed up, but on March 5, that message was never sent on March 5. Is that correct? The threat to call the sheriff, the trespassing was never sent on March 5. Is that correct?

Drew Pierce 1:02:15

Was March 5, the day

Defendant Rinaldi 1:02:17

that we were closing, supposedly. And then the fifth was when it got extended a day, or something like that. So

Drew Pierce 1:02:26

I'm just a bit confused, because I the only time that I heard anything you know of the sheriff was the day.

Defendant Rinaldi 1:02:33

So you were told that day to closing, yeah, that you didn't show up was that was the only time the sheriff was mentioned. So that day we were told that I threatened that at that time, is what you were told from the realtors, because I didn't text you. Obviously I texted

Drew Pierce 1:02:46

No, I don't remember if they directly said to me they were going to call the police. I just kind of assumed you were going to Yeah. I, honestly I they may have told me, yeah,

Defendant Rinaldi 1:02:58

I got you. Did the police ever say, Oh, the sheriff, ever say to you, we're just here to make sure nothing happens? Or did the report that is in there? They didn't even file a report

because there was really no issue. And I believe Andy tested that they were assisting you. So what were your interactions with the sheriff?

Drew Pierce 1:03:19

They told me they did. Huh?

Defendant Rinaldi 1:03:27

Because, I mean, I don't want to testify, so I'm sorry. Do you read where they weren't doing evictions at that time because of the covid? I think they suspended evictions.

Drew Pierce 1:03:36

Yeah , yeah.

Defendant Rinaldi 1:03:40

Now what? So before the sheriff, I know you've done that. You guys have gone there after closing, fall through, obviously, get your possessions Correct,

Drew Pierce 1:03:47

yeah,

Defendant Rinaldi 1:03:48

yeah. But you plan getting them. You didn't plan staying right. You just want to get your stuff your whole life in that Exactly, yeah, I got you. But you plan a grounding. I mean, leaving, obviously,

Drew Pierce 1:03:57

I would have stayed. I just wasn't trying to.

Defendant Rinaldi 1:04:00

No, I get it, yeah. But it wasn't like, like, you know, you want to stay there. And the sheriff said, No, you need to go. It was like, you're just like, I want to get my stuff. So, I mean, I wanted to stay No, I get that. But I mean, at that point, with everything going on, you were just trying to get your stuff to get out of there, correct?

Drew Pierce 1:04:17

At that point in time, I would say, yeah, yeah.

Defendant Rinaldi 1:04:21

And on the fifth it wasn't like, after close of fourth row, I said you need to come get your stuff or anything like that. It was just you guys. You just wanted your stuff so that you could, yeah, you know, we get got to the point where,

Drew Pierce 1:04:33

yeah, that was everything I had left.

Defendant Rinaldi 1:04:34

No, I get it.

Drew Pierce 1:04:35

I wasn't willing to give it up.

Defendant Rinaldi 1:04:36

No, no. I never had an issue with you doing that. So I did Andy ever tell you that I was offering to wait till Monday to try to work it out?

Drew Pierce 1:04:50

I mean, I've seen the text message at the time. I don't remember if they got you there was a lot of chaos.

Defendant Rinaldi 1:04:57

Yeah , I know it was crazy

Drew Pierce 1:04:59

for me to you know. To remember specfic details.

Defendant Rinaldi 1:05:01

Yeah, no, very hard, no, no. And you, I think you said this before. You weren't aware that all that money had been kind of gone. You had no idea any of that.

Drew Pierce 1:05:11

No,

Defendant Rinaldi 1:05:11

I got you. And again, you guys were agreeing to take the house as Is that correct?

Drew Pierce 1:05:19

Yeah,

Defendant Rinaldi 1:05:24

I it honestly. Thank you. Joe.

Justice Daniel Billings 1:05:29

Redirect Council

Attorney Monteleone 1:05:32

very briefly, sir, I think you were, you were asked, Mr Rinaldi, if, if the Sheriff asked you to leave, or, or if you, if you voluntarily left, did, did you perceive when you're talking to a law enforcement officer that staying was a option, and was that expressed to you by the law enforcement officer?

Drew Pierce 1:06:12

Yes,

Attorney Monteleone 1:06:20

Mr. Mr Rinaldi also asked you about willingness to take the property as is.

Drew Pierce 1:06:28

When we talk about taking it as is,

Attorney Monteleone 1:06:31

what is? What is that? What does that mean in terms of some of the the issues you were seeing at the house upon your final walkthrough before the closing that Mr. Rinaldi didn't attend.

Drew Pierce 1:06:45

I mean, I was willing to take it, you know, as as is in the state that it was in, obviously there was still, you know, some issues with some escrow stuff, with the driveway, which, and the the painting and whatnot, which I thought was all going to be taken care of. After the fact, I was just, you know, just looking at

Attorney Monteleone 1:07:03

those are, were you aware of other kind of inspection, inspection issues that that weren't of the level of of Escrow withholdings?

Drew Pierce 1:07:13

Yes,

Attorney Monteleone 1:07:15

what kind of, what kinds of things?

Drew Pierce 1:07:16

Well, I had a inspection done, private inspection, and there's some issues came up things that need to be addressed, like, like, what, um, there was a couple issues, some a couple minors, some plumbing issues, and some insulation issues, if I remember correctly, and just kind of some odds and ends that that weren't quite up to par where they should be. So what I was paying for were

Attorney Monteleone 1:07:41

those, those the kind of things that you, that you perceive you were willing to walk away from, in other words, asking Mr. Rinaldi to make fixes on those, those smaller things around the house.

Drew Pierce 1:07:54

You mean, like as and I was trying to hold him accountable for doing those or correct. I

Attorney Monteleone 1:07:57

mean, in other words, is by saying that you're willing to take it as as is? Were you referring to to not holding him accountable for some of some of those little things around the house, or were you referring to something else?

Drew Pierce 1:08:07

Yeah, I would say not hold him accountable for some of those little, little odds and ends. Nothing further.

Justice Daniel Billings 1:08:15

Thank you. May step down, sir. Thank you. Thank you, Council. I assume you don't have an five minute witness.

Attorney Monteleone 1:08:23

I'm afraid I only have one five minute witness today. Fair enough that said, if we can address just a couple of housekeeping items, I think that Mr. Rinaldi and I have a stipulation about admitting plaintiffs 11 and plaintiffs 12, which will spare us from having to hear from a different foundation witness.

Justice Daniel Billings 1:08:46

Okay, tomorrow, and that's the the Alta settlement statements.

Attorney Monteleone 1:08:50

Yes, Your Honor. Yeah. So first one agreement with

Justice Daniel Billings 1:08:54

that. Mister Rinaldi, yeah. Okay, thank you. So 11 and 12 were admitted by agreement of the parties. Thank you. Okay, so just for planning purposes, I'm not going to hold you to it, but I think it just can make things a little bit more efficient tomorrow. But again, if you make a strategic choice, otherwise, when we come back, I'm not going to hold you to it, but I always try to ask, like, what's your plan to start with? Because it just might make it easier

Unknown 1:09:20

for the What's

Justice Daniel Billings 1:09:23

your plan to start tomorrow? I

Attorney Monteleone 1:09:25

expect to start our morning with with Mr. Rinaldi, okay,

Justice Daniel Billings 1:09:29

and that's fine. So Mr. Rinaldi, as far as exhibits you intend to use? You need to figure that out. Yeah, I will just make copies. Mark them. Make copies. Have a copy for Mr. Monolione, one for yourself and one for the court, and that will just save us a lot of time. Yeah, I apologize, yeah. Okay. Court will be recess. We'll start 830 tomorrow morning. Thank you. All right. You.

Anthony Rinaldi
Westbrook
LD 1766

This Legislature is wasting the public's time. No law passed by this body has any legitimacy when the judicial system enforcing it is demonstrably corrupted. When judges suppress evidence, misrepresent basic rules of law, tolerate perjury, and openly deny due process, the rule of law no longer exists. At that point, legislation is a fraud.

I unequivocally oppose the current bill. Passing new laws while ignoring documented judicial misconduct is not governance—it is complicity. A judiciary that operates without accountability nullifies every statute, regulation, and constitutional guarantee this Legislature claims to uphold.

The most alarming fact is not that misconduct occurred—it is that it occurred openly, on the record, and without consequence. That is not an isolated failure; it is proof of systemic rot. Oversight mechanisms have failed. Judicial discipline has failed. Legislative oversight has failed. And the public is expected to pretend everything is functioning normally.

This body has no moral authority to advance legislation while courts are allowed to operate as unaccountable political actors rather than neutral arbiters of law. Until the Legislature confronts how judges can suppress truth, distort the law, and escape scrutiny, every bill passed here is meaningless.

I therefore demand an immediate, formal investigation by the Legislature and Judiciary Committee into judicial misconduct, institutional cover-ups, and the complete breakdown of accountability within the court system. Fix the courts—or stop pretending the law matters.

A corrupted judiciary makes democracy a lie.